

R Grace - Archived

108-025-08 ENFORCEMENT ACTION FILES
207b UIC - EAST POPLAR OIL FIELD ENFORCEMEN
CDM 050 100

Region 8



64425

1 R Grace - Approved

108-025-08 ENFORCEMENT ACTION FILES
207b UIC - EAST POPLAR OIL FIELD ENFORCEMEN
SDWA SEC. 1431
Folder ID 64425 1987 Privileged

Memorandum

FILE



DTB:BGD:rab
90-5-1-1-2383

Subject Discovery in United States v.
Grace Petroleum Corp.

Date June 29, 1987

To Alfred Smith
Region VIII

Alan Morrissey
Headquarters

David Drelich
Headquarters

Don Olson
Headquarters

From Brian G. Donohue
Attorney
Environmental Enforcement
Section

Please be advised that I have spoken with the attorney for Grace Petroleum Corp. regarding their most recent offer. I explained to him that before we could sign off on an agreement, we would need some verification of the profit made by Grace and an indication as to whom the royalty payments were made.

He is speaking with his client in order to obtain such information. However, the case still must go on while awaiting this verification. Thus, enclosed is the most recent discovery request from Grace. As you are aware, there has been a court imposed stay on discovery pending a decision on the cross-motions for summary judgment. Even so, we must begin now to accumulate the information requested.

Therefore, please search your files in order to see if such information exists. If so, I will need the Agency's initial determination as to whether we should withhold any of this information based on the deliberative process privilege. In any event, it is important that this information be gathered so that it can be reviewed and distributed as quickly as possible. Please contact me as soon as possible with this information.

In that vein, also enclosed is a letter I received from Grace requesting that we supply certain documents to support our previous discovery responses. This information is requested in order for Grace to support certain assertions it made in its recent response to our summary judgment motion. A copy of the response to the summary judgment motion is attached.

In regard to that response, it would be appreciated if you would call with suggestions on how to respond to the claims made by Grace. Obviously, we are working in new ground and the views of the program people is necessary.

Finally, please note the deposition schedule attached. Please contact those people located in your shop to determine their availability in the month of August. The dates indicated in the notice are not operative until further notice in that at least I will not be available (probably for the rest of July).

() shue, B

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
13 Plaintiff,)
14 vs.)
15 GRACE PETROLEUM CORPORATION,) DEFENDANT'S SECOND
16 Defendant.) REQUEST FOR PRODUCTION
) OF DOCUMENTS

17
18 Defendant Grace Petroleum Corporation requests the
19 United States of America, pursuant to Rules 30(b)(5) and 34 of
20 the Federal Rules of Civil Procedure, to produce and permit de-
21 fendant to inspect and to copy each of the documents described
22 below.

23 The documents are to be produced at the time and place
24 of the taking of the depositions described in the notices served
25 on June 15, 1987. The requests for production must also be an-

44 6-5-H-2383

DEPARTMENT OF JUSTICE	R
JUN 19 1987	E
	C
	O
	R
	D

1 swered in writing within the time allowed. The requests shall
2 also be deemed continuing in nature so as to require supplemen-
3 tal responses to be filed in the event that additional informa-
4 tion is obtained after the date the initial responses are served
5 or after the date of the depositions referred to in the notices
6 served on June 15, 1987.

7 1. All notes, memoranda, telephone logs, telephone
8 call slips, correspondence, and any other documents which in any
9 way pertain to the contacts, by the individuals designated in
10 the notices of depositions served on June 15, 1986, regarding
11 the selection of the wells in Montana in the initial "call-in";
12 the processing of the applications for the Grace wells involved
13 in the initial call-in in Montana; the extensions of time given
14 to Murphy Oil, Superior Oil, and Mobil Oil; and any discussions,
15 recommendations, or advice regarding the decision to pursue or
16 not pursue enforcement of penalties or injunctions against Ajax
17 Oil, Mobil Oil, Superior Oil, and Grace Petroleum for wells in
18 Montana.

19 RESPONSE:

20 2. Notes, memoranda, telephone logs, telephone call
21 slips, correspondence, and any other documents which were pre-
22 pared by any of the participants regarding the meetings, discus-
23 sion, recommendations, or advice of the "ad hoc working group"
24 referred to in answer to interrogatory No. 8 of the plaintiff's
25 answers to defendant's first interrogatories.

RESPONSE::

3. The letter from the Bureau of Indian Affairs re-
ferred to in answer to interrogatory No. 8 of the plaintiff's
answers to defendant's first interrogatories.

RESPONSE:

1
2 4. All records, notes, memoranda, telephone logs,
3 telephone call slips, correspondence, and any other documents
4 which in any way pertain to the conversations and site visits
5 with the Bureau of Land Management referred to in answer to in-
6 terrogatory No. 8 of the plaintiff's answers to defendant's
7 first interrogatories.

8 RESPONSE:

9 5. Well completion records from the Bureau of Mines
10 and Geology referred to in answer to interrogatory No. 8 of the
11 plaintiff's answers to defendant's first interrogatories.

12 RESPONSE:

13 6. The administrative program goals referred to in
14 answers to interrogatory No. 10 of the plaintiff's answers to
15 defendant's first interrogatories.

16 RESPONSE:

17 7. All notes, memoranda, telephone logs, telephone
18 call slips, correspondence, and any other documents, including
19 the "background files" or which make up the background files,
20 for the preparation and writing of the UIC program regulations.

21 RESPONSE:

22 8. The standard form notices, and samples of the no-
23 tices sent in each region, for the "call-in" of Class II under-
24 ground injection wells.

25 RESPONSE:

9. All notes, memoranda, telephone logs, telephone call slips, correspondence, and any other documents which in any way pertain to the extension of time given by Region III to Damson Oil Corporation and Amoco Production Company regarding PA52D561BSOM, including any such records regarding any decisions, discussions, recommendations, or advice to pursue or not pursue enforcement of penalties or injunctions against Damson Oil Corporation and Amoco Production Company for the said well.

RESPONSE:

10. Original call-in letters sent to Superior Oil and Mobil Oil regarding Tribal Bear #1.

RESPONSE:

Dated this 15th day of June, 1987.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By

Jack Ramsey
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of June, 1987, I mailed a copy of the foregoing to the following counsel of record:

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

1
2 Brian G. Donohue
3 Attorney, Environmental Enforcement
4 Section.
5 Land & Natural Resources Division
6 United States Department of Justice
7 Washington, D.C. 20530

8 Bryan H. Dunbar
9 United States Attorney
10 George F. Darragh, Jr.
11 Assistant United States Attorney
12 P. O. Box 3446
13 Great Falls, Montana 59403

14
15
16
17
18
19
20
21
22
23
24
25


1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15 vs.) NOTICE TO TAKE DEPOSITIONS
16 GRACE PETROLEUM CORPORATION,)
17 Defendant.)

18 TO: BELOW-LISTED COUNSEL:

19 PLEASE TAKE NOTICE that beginning at 9:00 a.m. on the
20 27th day of July, 1987, at the office of the Environmental
21 Protection Agency, 401 M Street SW, Washington, D.C., the
22 Defendant in the above-entitled action, GRACE PETROLEUM
23 CORPORATION, will take the depositions of the persons listed
24 below upon oral examination, pursuant to the Federal Rules of
25 Civil Procedure, before a Notary Public or some other officer

1 authorized by law to administer oaths. The oral examinations
2 will continue from day to day until completed. You are invited
3 to attend and cross-examine.

- 4 1. Victor J. Kimm
- 5 2. Alexis Smith
- 6 3. Debbie Ehlert
- 7 4. Larry Graham
- 8 5. Roger Frenette
- 9 6. Pat Godsil
- 10 7. Seth Hunt
- 11 8. Allan J. Morrissey
- 12 9. Thomas E. Belk
- 13 10. Allan Levin
- 14 11. Paul Baltay
- 15 12. John Chamberlain
- 16 13. John Capacasa
- 17 14. Joseph Harrison
- 18 15. All individuals who are or were employed by the
19 United States of America and who are not presently
20 residing in the Denver area or Montana who had any
21 contact with Grace Petroleum Corporation regarding
the UIC program from June 15, 1984 through January 2,
1986.
- 22 16. - All individuals who are or were employed by the
23 United States of America and who are not presently
24 residing in the Denver area or Montana who were in
25 any way involved in the decision regarding the initial
"call-in" in Montana; were involved in processing the
permit application of Grace; reviewed the file to
determine if suit should be filed against Grace; or
were consulted in any way or participated in the

1 decision to sue Grace.

2 17. -All individuals who are or were employed by the
3 United States of America who are not presently
4 residing in the Denver area or Montana who you intend
5 to call as a witness.

6 18. All individuals who are or were employed by the
7 United States of America and who are not presently
8 residing in the Denver area or in Montana who were
9 employed in the Helena or the Denver office of the
10 Environmental Protection Agency in July and early
11 August of 1984 and who could have talked to Matt
12 Strever or responded to questions concerning the
13 UIC program.

14 19. All individuals who are or were employed by the United
15 States of America who drafted or worked on the drafting
16 of the language contained in Regulation 40 C.F.R.,
17 Section 144.25(4)(b) and Regulation 40 C.F.R., Section
18 124.20(d).

19 DATED this 15 day of June, 1987.

20 CROWLEY, HAUGHEY, HANSON,
21 TOOLE & DIETRICH

22 By:

23 Jack Ramirez by J.P.R. [Signature]
24 Jack Ramirez
25

1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) NOTICE TO TAKE DEPOSITIONS
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 TO: BELOW-LISTED COUNSEL:

22 PLEASE TAKE NOTICE that beginning at 1:00 p.m. on the
23 22nd day of July, 1987, at the office of the Environmental
24 Protection Agency, 301 S. Park, Helena, Montana, the Defendant in
25 the above-entitled action, GRACE PETROLEUM CORPORATION, will take
the depositions of the persons listed below upon oral examina-
tion, pursuant to the Federal Rules of Civil Procedure, before
a Notary Public or some other officer authorized by law to
administer oaths. The oral examinations will continue from day

to day until completed (commencing at 8:00 a.m. on July 23, 1987).

You are invited to attend and cross-examine.

1. John F. Wardell
2. Richard Montgomery
3. James Boyter
4. Fran Ashworth
5. Debbie Clevenger
6. Doris LaPier
7. Bob Fox
8. Dean R. Chaussee
9. William E. Engle (continuation of deposition of June 2, 1986).
10. All individuals who are or were employed by the United States of America and who are presently residing in Montana who had any contact with Grace Petroleum Corporation regarding the UIC program from June 15, 1984 through January 2, 1986.
11. All individuals who are or were employed by the United States of America and who are presently residing in Montana who were in any way involved in the decision regarding the initial "call-in" in Montana; were involved in processing the permit application of Grace; reviewed the file to determine if suit should be filed against Grace; or were consulted in any way or participated in the decision to sue Grace.
12. All individuals who are or were employed by the United States of America and who are presently residing in Montana who you intend to call as a witness.
13. All individuals who are or were employed by the United States of America and who are presently residing in Montana who were employed in the Helena office of the Environmental Protection Agency in July and early August of 1984 and who could have

1 talked to Matt Strever or responded to questions
concerning the UIC program.

2 DATED this 15th day of June, 1987.

3 CROWLEY, HAUGHEY, HANSON,
4 TOOLE & DIETRICH

5
6 By Jack Ramirez by J.P. Ziles
7 Jack Ramirez

1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441

7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>NOTICE TO TAKE DEPOSITIONS</u>
)	
15 GRACE PETROLEUM CORPORATION,)	
)	
16 Defendant.)	

17 TO: BELOW-LISTED COUNSEL:

18 PLEASE TAKE NOTICE that beginning at 1:00 p.m. on the
19 20th day of July, 1987, at the office of the Environmental
20 Protection Agency, 1860 Lincoln St., Denver, Colorado, the
21 Defendant in the above-entitled action, GRACE PETROLEUM
22 CORPORATION, will take the depositions of the persons listed
23 below upon oral examination, pursuant to the Federal Rules of
24 Civil Procedure, before a Notary Public or some other officer
25 authorized by law to administer oaths. The oral examinations

will continue from day to day until completed (commencing at 8:00 a.m. on July 21, 1987).

You are invited to attend and cross-examine.

1. John G. Wells
2. Pattrick Crotty
3. Laura Clemmens
4. Richard R. Long
5. Max H. Dodson
6. Derrick Hobson
7. Gustav Stolz, Jr.
8. Paul S. Osborne
9. Michael Strieby
10. Michael Liuzzi
11. T. A. Minton
12. All individuals who are or were employed by the United States of America and who are presently residing in the Denver area who had any contact with Grace Petroleum Corporation regarding the UIC program from June 15, 1984 through January 2, 1986.
13. All individuals who are or were employed by the United States of America and who are presently residing in the Denver area who were in any way involved in the decision regarding the initial "call-in" in Montana; were involved in processing the permit application of Grace; reviewed the file to determine if suit should be filed against Grace; or were consulted in any way or participated in the decision to sue Grace.
14. All individuals who are or were employed by the United States of America and who are presently residing in the Denver area who were employed in the Denver office of the Environmental Protection Agency in July and early August of 1984 and who could have talked to Matt Strever or responded

to questions concerning the UIC program

15.- All individuals who are or were employed by the
United States of America and who are presently
residing in the Denver area who you intend to call
as a witness.

DATED this 16th day of June, 1987.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By Jack Ramirez
Jack Ramirez

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403

George A. Rathbone

- nohue, B

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES
L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P.O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

OF COUNSEL
CALE CROWLEY
JAMES M. HAUGHEY

June 22, 1987

LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. MILEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANDIN, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HASEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MARY S. YERGER
JON T. DYRE
DENNIS NETTISIMMONS
MICHAEL G. WALLER
SHARON NOVAK
ERIC H. ANDERSON
BRUCE A. FREDRICKSON
JEFFREY W. HEDGER
JOHN E. BOHYER
JANICE L. REHBERG

Mr. Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

Re: USA v. Grace Petroleum Corporation
Our File No. 41-175-13

Dear Mr. Donohue:

Mr. Ramirez has asked me to write to you to request that you send us documents which your answers indicate were enclosed with your response to our first interrogatories and requests for production, but which documents did not seem to be in the packet. The missing documents are the telephone memo sheets we asked for in Request No. 1 and the letter your answer indicates you produced in response to our Request No. 3 (a letter referred to by you at page 20 of the Engle deposition).

We would appreciate your forwarding copies of these documents as quickly as possible. We intend to file them with the court along with other discovery documents. Thank you.

Sincerely,

Becky Copple
Becky Copple
Legal Assistant to
Jack Ramirez

BC/bj

44-5-H-2383

44	DEPARTMENT OF JUSTICE	R
	JUN 25 1987	RECORDED
	LANDS	

LANDS DIVISION
BELLINGHAM, WASHINGTON

Jack Ramirez
CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH
P. O. Box 2529
Billings, Montana 59103
406-252-3441
ATTORNEYS FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
Plaintiff,)	
)	
vs.	)	<u>MOTION FOR LEAVE TO FILE</u>
	)	<u>DISCOVERY</u>
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	

Defendant Grace Petroleum Corporation has filed a Motion for Summary Judgment. Defendant moves the Court for leave to file original discovery in order that the Court might consider Defendant's Motion for Summary Judgment.

With the Court's approval the Defendant will file the documents listed below:

1. Defendant's Answers to Plaintiff's First Interrogatories and documents attached thereto.

10-5-14-2383	
44	DEPARTMENT OF JUSTICE
JUN 25 1987	
LANDS	
RECORD	

2. Defendant's Answers to Plaintiff's First Requests for Production and documents attached thereto.

3. Plaintiff's Answers to Defendant's First Interrogatories and Requests for Production of Documents and documents attached thereto.

4. Defendant's Answers to Plaintiff's Second Set of Interrogatories and attachments thereto.

5. Original signed deposition of William E. Engle.

6. Exhibits to Engle deposition.

7. Original signed deposition of Judy N. Graham and exhibits attached thereto.

8. Original signed deposition of Matthew P. Strever and exhibits attached thereto.

It should be noted that Plaintiff's response to Request No. 1 of Defendant's First Requests for Production indicates that telephone memo sheets were attached and that Plaintiff's response to Request No. 3 of Defendant's First Requests for Production indicates that a letter referenced at page 20 of Engle's deposition was attached. These documents were not included in the material Defendant received from the Plaintiff. Defendant has requested Plaintiff's attorney to provide it with the documents and will forward them as soon as they are available.

DATED this 22 day of June, 1987.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By

Jack Ramirez
Jack Ramirez

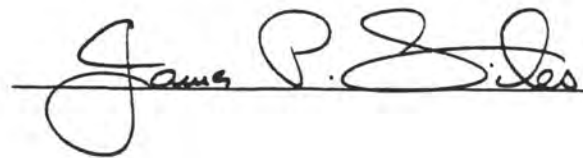
CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of June,
1987, I mailed a copy of the foregoing to the following
counsel of record:

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403



1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
13)
14 Plaintiff,)
15 vs.)
16 GRACE PETROLEUM CORPORATION,)
17 Defendant.)

18 - - - - -
19 .. REPLY BRIEF OF DEFENDANT
20 .. GRACE IN SUPPORT OF ITS
21 - MOTION FOR SUMMARY JUDGMENT
22 - AND ANSWER BRIEF OF GRACE
23 IN OPPOSITION TO PLAINTIFF'S
24 MOTION FOR SUMMARY JUDGMENT
25 - - - - -

24 The defendant, Grace Petroleum Corporation, has filed
25 a motion for summary judgment, seeking to isolate one simple,

1 narrow issue which appears to be dispositive of the case brought
2 by the United States. Discovery in the case thus far has con-
3 centrated on the issue presented in Grace's motion for summary
4 judgment. For the most part, other discovery has been postponed
5 pending a decision of this court.

6 In response to Grace's motion, the United States filed
7 a cross-motion for summary judgment on January 14, 1987. The
8 motion for summary judgment filed by the United States is essen-
9 tially a "mirror-image" of Grace's motion. Grace contends that
10 its applications for UIC permits were filed timely by virtue of
11 40 CFR 124.20(d). There appears to be no dispute between the
12 United States and Grace that Grace is entitled to summary judg-
13 ment if 40 CFR 124.20(d), applies to this case. 40 CFR
14 124.20(d) provides, of course, that whenever a party is required
15 to act within a prescribed period after the service of a notice
16 by mail, three days is added to the allowable time. Because the
17 EPA notices requiring UIC applications were mailed to Grace,
18 Grace contends the deadline for filing its UIC applications be-
19 came August 2, 1984. Grace's applications were filed on August
20 1, 1984, one day before expiration of the time for filing.
21 Grace therefore continued to enjoy authorization to inject under
22 the regulations throughout the period, up to September 28, 1984,
23 for which civil penalties are sought by the government, and is
24 thus entitled to summary judgment.

25 The converse, however, is not true. The United States

1 contends that if the three-day extension given by 40 CFR
2 124.20(d) is not applicable to the facts of the case, then the
3 United States is entitled to summary judgment. This is far from
4 the case, as subsequent discussion will demonstrate.

5 Grace, therefore, will present this brief in two
6 parts. First, Grace will reply to the argument of the United
7 States in opposition to Grace's motion for summary judgment.
8 Grace will then discuss the cross-motion filed by the United
9 States.

10 I.

11 ARGUMENT

12 UIC APPLICATIONS TIMELY
13 SUBMITTED UNDER APPLICABLE
14 ADMINISTRATIVE REGULATION

15 It is undisputed by the parties that 40 CFR 124.20(d)
16 applies to situations arising out of the administrative UIC per-
mitting process.¹ 40 CFR 124.20(d) provides:

17 "Whenever a party or interested person has
18 the right or is required to act within a
19 prescribed period after the service of no-
20 tice or other paper upon him or her by mail,
three (3) days shall be added to the pre-
scribed time."

21 While the above-cited regulation is similar to Rule
22 6(e), the regulation, not Rule 6(e), applies to this case.

23 The Federal Register Comment published at the time of
24

25 ¹40 CFR 124.1, complaint paras. 8 and 10; Cross-Motion Memorandum, p. 10.

1 the adoption of 40 CFR 124.20, states this section of federal
2 regulations was ". . . to include methods for computing time
3 that conform with the Federal Rules of Civil Procedure." 45
4 F.R. 33412, May 19, 1980. (Emphasis supplied.) (See Cross-
5 Motion Memorandum, p. 10.) The Comment shows the administrative
6 intention underlying the regulation was broader than the related
7 federal procedural rule, Rule 6(e).

8 What is solely involved in this motion for summary
9 judgment is establishing the time period for completion of an
10 administrative act. The procedural regulation, 40 CFR
11 124.20(d), is promulgated by EPA for guidance of the public.
12 The Court in Call v. Heckler, 647 F.Supp. 560 (D. Mont. 1986)
13 (Hatfield, J.) has already spoken as to the yardstick to be used
14 (at 647 F.Supp. 563):

15 "Within certain parameters, courts must gen-
16 erally accord substantial deference to ad-
17 ministrative agencies in areas such as fact-
18 finding, Estep v. Richardson, 459 F.2d 1015
19 (4th Cir. 1972), and policy-making, I.C.C.
20 v. Inland Waterways Corp., 319 U.S. 671,
21 691, 63 S.Ct. 1296, 1307, 87 L.Ed. 1655
22 (1943). No such tolerance, however, is re-
23 quired in matters pertaining strictly to an
24 agency's observance and implementation of
25 its self-prescribed procedures. The courts,
to protect due process, must be particularly
vigilant and must hold agencies, such as the
Social Security Administration, to a strict
adherence to both the letter and the spirit
of their own rules and regulations. Powell
v. Heckler, 789 F.2d 176 (3rd Cir. 1986)."

24 The government in its responding brief has turned
25 around the rule of construction in administrative matters estab-

1 lished by this Court. The government does not face up to the
2 fact that it will be held to a strict adherence to both the let-
3 ter and spirit of its administrative regulation, 40 CFR
4 124.20(d).

5 Counsel for the United States in its cross-motion mem-
6 orandum invites the Court to consider a number of inapposite
7 cases construing Rule 6(e). (See Cross-Motion, pp. 11-13.) In
8 so doing, the government has confused the present issue, avail-
9 able time for completion of an administrative act, with waiver
10 of sovereign immunity to suit and notions of jurisdiction. In
11 Carr v. Veterans Administration, 522 F.2d 1355 (5th Cir. 1975),
12 the applicable statute of limitations, waiving sovereign immu-
13 nity to suit, specified that an action be begun within six
14 months after the date of mailing. A computational rule, Rule
15 6(e), was held not to expand the statutory grant to sue the
16 sovereign. A rule of strict construction is typically imposed
17 on waivers of sovereign immunity to suit, not on the government,
18 but on the private party. This is absolutely the reverse of how
19 the strict construction standard at bar is to be viewed.

20 In the same vein, the holding of Goff v. Pfau, 418
21 F.2d 649 (8th Cir. 1969), recognized that the time for appeal
22 under the Bankruptcy Act started to run from entry of the order
23 which was sought to be reviewed. Again, service was not an im-
24 portant event. In Army and Air Force Exchange v. Hanson, 250
25 F.Supp. 857 (D. Hawaii 1966), the time for initiating a review

1 to a compensation order entered under the Longshoremen's and
2 Harbor Workers' Compensation Act was 30 days after filing, or
3 entry, of the underlying compensation order. The Court in Flint
4 v. Howard, 464 F.2d 1084 (1st Cir. 1973), rejected a petition
5 for rehearing. One of the grounds advanced for rehearing in-
6 volved the time allowed for motions for reconsideration under
7 Rules 52 or 59, F.R.Civ.P. The Court found that the ten days
8 provided for in the Rules of Civil Procedure, within which such
9 a motion must be filed, runs from the entry of judgment. Once
10 more, service was not a factor.

11 Where an order of court requires action within a pe-
12 riod of time, whether Rule 6(e) applies, or not, appears to be
13 somewhat uncertain. Compare Bell & Howell Acceptance Corp. v.
14 Wolverine Mailing, 107 FRD 116 (E.D. Mich. 1985) (Rule 6(e) ap-
15 plied), with Clements v. Florida East Coast Railway Company, 473
16 F.2d 668 (5th Cir. 1973), (while declining to apply Rule 6(e), a
17 district court decision vacated and remanded.)

18 There is not a shred of authority we are aware of to
19 support the bald contention of the government (Cross-Motion
20 Memorandum, p. 10) that Rule 6(e) does not apply when a specific
21 deadline is imposed for some act. To the contrary, Rule 6(e)
22 has been applied where some act must be done on a certain date
23 after mail service. See, e.g., In re Stephens, 211 F.Supp. 201
24 (S.D. Tex. 1961).

25 Equally without foundation is its asserting that Rule

1 6(e) is "reserved strictly" to cases where a "time period for
2 filing dependent upon the date of service by mail" is involved
3 (Cross-Motion Memorandum, p. 11). This case involves precisely
4 a time period and service by mail. If that is so, Rule 6(e)
5 should apply and administrative regulation 40 CFR 124.20(d) cer-
6 tainly applies.

7 Research has revealed no case law construing 40 CFR
8 124.20(d). The heading for our argument in our opening brief -
9 "add three days if notices mailed" - was taken from the course
10 manual developed for EPA by the T. A. Minto Group, Oklahoma
11 City, and presented to governmental personnel, including William
12 Engle, attending two UIC permit training seminars. Two were
13 held in 1984 by EPA for its employees involved in the UIC per-
14 mitting process, one seminar in Denver and the other in Atlanta.

15 40 CFR 124.20(d) is succinctly interpreted by EPA in
16 the course manual (Exhibit D to Grace's opening brief) to add
17 three days if notice is mailed. The manual states:

18 "Section 124.20 Computation of time.

19 "(a) Time period starts the day after ac-
20 tual event occurs (SC-Specifics)

21 "(b) Time period starts on day before act
22 or event (SC-Specifics)

23 "(c) If final date is weekend or holiday -
24 day after

25 "(d) Add three days if notices mailed
(Emphasis supplied.) (page 24 Course Man-
ual, 'A SUMMARY OF PART 124 SUBPART A,' con-

1 tained in Attachment 14, attached to Grace's
2 opening brief.)

3 Government counsel objects on the basis that the man-
4 ual interpretation of 40 CFR 124.10(d) is "merely shorthand" and
5 cannot "change the clear language" of the administrative regula-
6 tion. (See Cross-Motion Memorandum, p. 14.) The manual inter-
7 pretation does not change, but is consistent with, the language
8 of 40 CFR 124.20(d), which clearly provides for the addition of
9 three days to the prescribed time after service by mail.²

10 The EPA notice of June 25, 1984 (Exhibit C to Grace's
11 opening brief) requested that the UIC applications be submitted
12 "by July 30, 1984." Although the time for compliance was fixed
13 by reference to a particular date, this language created a pre-
14 scribed period or prescribed time in which the applications were
15 to be filed, just as much as if a number of days had been given.

16 Counter to the government's allegation that Grace pre-
17 sented immaterial and irrelevant arguments in its opening brief,
18 it is important to clearly and fully present the context of
19 events in which the UIC permit application request arose.

20 Unlike statutorily enacted grants to sue the govern-
21 ment, nowhere in the federal regulations or law could Grace look
22 to ascertain why July 30, 1984, was chosen. In fact, it was
23 chosen by the EPA Regional Administrator for Region VIII. The

24
25 ²To the extent the language of the regulation may be regarded as
 unclear, the manual interpretation is relevant to disclose the
 underlying administrative intention.

1 willy-nilly manner in which time periods were set is reflected
2 by Exhibit A to Grace's opening brief. It shows that others
3 subsequently required (by way of "call-ins" established by EPA)
4 to submit UIC applications were given much more time for compli-
5 ance, by the same Regional Administrator. Exhibit A reflects
6 that the time period given in the February 5, 1985, call-in was
7 generally 55 days. More recently than that, the time period has
8 generally been between 84 and 92 days. This is a far cry from
9 immutable time periods fixed by statute. EPA approached grant-
10 ing extensions in its time periods for submission of UIC appli-
11 cations in an equally inconsistent manner.

12 Yet, in this case, EPA quarrels with granting Grace
13 the three additional days the administrative regulation says
14 Grace, or anyone, is entitled to. What EPA created, by the very
15 language of its notice of June 25, 1984, was a prescribed
16 "period" or prescribed "time" in which Grace was to act. The
17 notice itself refers to the need to submit UIC permit applica-
18 tions "within the time period specified in this notice."
19 40 CFR 124.20(d) clearly adds three days where there is such a
20 prescribed period and notice is sent by mail.

21 The whole point of computation of time rules, like 40
22 CFR 124.20(d) and Rule 6(e), F.R.Civ.P., is to create parity be-
23 tween those served by mail and personally. Cf. Norris v.
24 Florida Department of Health and Rehabilitative Service, 730
25 F.2d 682 (11th Cir. 1984). The government recognizes this

1 (Cross-Motion Memorandum, p. 11) but fails to apply it to this
2 case. If Grace had been served personally on June 25, with the
3 letter dated June 25, 1984, under the government's reasoning
4 Grace would have had until July 30 to comply. Since the letter
5 of June 25, however, was sent by mail, the addition of three
6 days to the prescribed time implements the very purpose of the
7 computation of time rule by equalizing the allowable time be-
8 tween those served by mail and those served personally. Any
9 other interpretation renders 40 CFR 124.20(d) a meaningless reg-
10 ulation.

11 EPA's wooden approach is graphically illustrated by
12 what actually happened here. The government in response to in-
13 terrogatories answered that Grace had 35 days in which to re-
14 spond to EPA's notice of June 25, 1984, requiring UIC permit
15 applications. The notice was date stamped as received on June
16 27th and UIC permit applications were mailed by Grace on the
17 35th day, August 1, 1984. Trying to exalt form--a "deadline"
18 date--over substance, the government now seeks to deny to Grace
19 even 35 days in which to do its UIC permit applications. It
20 does not want to give any consideration for mailing time, even
21 though the notice was served by mail. By way of attempted
22 analogies to other areas of the law, United States Counsel en-
23 shrines the July 30, 1984, deadline as if it were chiseled in
24 concrete, as if it were a grant to sue the Sovereign.

25 This is not only out of step with the law but also at

odds with the administrative scheme.

40 CFR 144.25(4)(b) contains the requirements for notice³ of the "call-in". This regulation provides that:

"[t]he notice shall include . . . a statement setting a time for the owner or operator to file the application. . . ."
(Emphasis supplied.)

The computation of time regulation refers to the additional three days being added whenever there is a "prescribed period" or "prescribed time". The above-quoted regulation governing notices, 40 CFR 144.25(4)(b), provides that the government must set a "time" for the filing of the application. The word prescribed simply means required; therefore, setting a "time" must necessarily create a prescribed time.

The notice regulation, 40 CFR 144.25(4)(b), required a prescribed time. If the letter of June 25, 1984, complied with the notice regulation, then the setting of a "deadline" must also have created a prescribed time, and clearly under these circumstances the three-day regulation would apply by its terms. If the government contends that the letter did not set a prescribed "time", but merely a "deadline", then the notice did not meet the requirements of 40 CFR § 144.25(4)(b).

³The notice in this case is seriously defective in that it fails to contain ". . . a statement of the consequences of . . . failure to submit an application. . . ." There is no mention of the financial consequences, i.e., a civil penalty fine of up to \$5,000 per day per well. On this ground, inadequacy of notice, Grace will move for summary judgment, should its motion on the present ground be denied.

1 The government obviously intended to comply with the
2 notice regulation. It clearly intended to set a prescribed
3 time. This is evidenced by its own statement in the letter of
4 June 25 that the applications needed to be filed "within the
5 time period specified in this notice." Thus, if the notice is
6 to be construed to have met the requirements of the notice regu-
7 lation, and if the government's own characterization of its let-
8 ter is accepted, there clearly was a prescribed period or pre-
9 scribed time created. The three-day regulation, 40 CFR
10 124.20(d), also must apply to make the federal regulatory sec-
11 tions internally consistent and meaningful.

12 Rather than Grace acting "desperately" (Cross-Motion
13 Memorandum, p. 15), it appears that the government is trying
14 mightily to avoid the plain meaning of its own regulation, 40
15 CFR 124.20(d), and the unambiguous interpretation of the regula-
16 tion which is reflected in the training course manual. Its
17 "desperation" is reflected in its eleventh hour attempt to in-
18 terject a new requirement, in the alternative, unsupported by
19 the evidence. This is that the applications should have at
20 least been postmarked by July 30, 1984, "or received by August
21 2, 1984." (Cross-Motion Memorandum, pp. 15-16.) Timely mailing
22 constitutes timely filing. (Engle depo., pp. 55-56.) There is
23 nothing remarkable in that admission by the government, since it
24 simply reflects a general rule, which United States Counsel rec-
25 ognizes elsewhere (Cross-Motion Memorandum, pp. 10-11), that

1 vice by mail is complete upon mailing.

2 The regulation is to be interpreted generously, not
3 meanly and incorrectly. Simply stated, under 40 CFR 124.20(d)
4 Grace plainly had three additional days in which to submit its
5 UIC permit applications. Grace's applications were therefore
6 timely filed, and Grace is entitled to summary judgment.

7 II.

8 THE UNITED STATES IS NOT ENTITLED TO SUMMARY
9 JUDGMENT, EVEN IF THE COURT DETERMINES
10 THAT THE THREE-DAY EXTENSION OF
11 40 CFR 124.40(d) IS INAPPLICABLE TO THIS CASE.

12 The motion for summary judgment filed by the United
13 States is spurious. It is obviously been filed as a tactical
14 display of bravado; the motion contains a multitude of fatal
15 flaws and defects. The United States does not begin to analyze
16 the issues created by the pleadings. It has completely ignored
17 a number of issues raised by Grace's answer. The United States
18 does not even begin to identify, let alone discuss, the disputed
19 issues which the Court must determine in order to ultimately
20 find in favor of the government.

21 The burden placed upon a moving party in a motion for
22 summary judgment has been set forth frequently by both this
23 Court and the Ninth Circuit Court of Appeals. In the recent
24 case of Richards v. Nelson Freight Lines, 810 F.2d 898 (9th Cir.
25 1987), the Court stated:

 ". . .The moving party must establish that
 no genuine issue of material facts exists

1 and that it is entitled to judgment as a
2 matter of law. Northrop Corp. v. McDonnell
3 Douglas Corp., 705 F.2d 1030, 1050 (9th
4 Cir.), cert. denied, 464 U.S. 849, 104 S.Ct.
5 156, 78 L.Ed.2d 144 (1983);
6 Fed.R.Civ.P.56(c). The moving party bears
7 the initial burden to show the absence of a
8 material and triable issue of fact; the bur-
9 den then moves to the opposing party, who
10 must present significant probative evidence
11 tending to support its claim or defense.
12 General Business Systems v. North American
13 Philips Corp., 699 F.2d 965, 971 (9th Cir.
14 1983) (quoting First National Bank v. Cities
15 Service Co., 391 U.S. 253, 290, 88 S.Ct.
16 1575, 1593, 20 L.Ed.2d 569 (1968))."

810 F.2d at 902.

11 In Celotex Corporation v. Catrett, 477 U.S. ___, 106
12 S.Ct. ___, 91 L.Ed.2d 265 (1986), the United States Supreme
13 Court adopted a somewhat more lenient burden on a party seeking
14 summary judgment. In that case, four of the Justices determined
15 that summary judgment can be entered against a party who fails
16 to make a sufficient showing of a genuine issue of fact on an
17 essential element as to which that party has the burden of
18 proof. The moving party, however, is not relieved of the obli-
19 gation to the court to justify entry of summary judgment in its
20 favor. The Court stated:

21 "Of course, a party seeking summary judgment
22 always bears the initial responsibility of
23 informing the district court of the basis
24 for its motion, and identifying those por-
25 tions of 'the pleadings, depositions, an-
swers to interrogatories, and admissions on
file, together with the affidavits, if any,'
which it believes demonstrate the absence of
a genuine issue of material fact."
(Emphasis supplied.)

1 91 L.Ed.2d at 274.

2 Justice White, whose concurring opinion provided a ma-
3 jority necessary for reversal of the Court of Appeals decision,
4 also noted:

5 "[T]he movant must discharge the burden the
6 rules place upon him: It is not enough to
7 move for summary judgment without supporting
8 the motion in any way or with a conclusory
assertion that the plaintiff has no evidence
to prove his case."

9 91 L.Ed.2d at 277.

10 In the present case, the government has not supported
11 its motion in any way. It has not, as is required under the
12 most lenient standard, informed the district court of the basis
13 for its motion. It has not identified those portions of the
14 pleadings, depositions, answers to interrogatories, and admis-
15 sions on file which it believes demonstrate the absence of gen-
16 uine issues of material fact.

17 A brief review of the issues raised by the pleadings
18 will show the gross inadequacy of the government's motion for
19 summary judgment.

20 1. Adequacy of Notice. The United States alleges,
21 among other things, that "despite notice from EPA," Grace con-
22 tinued to operate the injection wells until on or about
23 September 28, 1984. (Complaint, ¶¶ 21, 24, and 27.) As indi-
24 cated in our initial brief, Grace was authorized by regulation
25 to continue to inject in the three wells in question. In order

1 to call into question that authority, it was incumbent upon the
2 EPA to give notice to Grace to file permit applications. A
3 valid notice is essential to the government's case.

4 Grace has never acknowledged that the letter of June
5 25, 1984, constituted a valid or adequate notice under the regu-
6 lations or law. Grace contends that the letter was defective
7 and insufficient. (See Grace's initial Brief in Support of Mo-
8 tion for Summary Judgment, p. 14, fn. 1.) This contention has
9 been framed in the pleadings. Grace specifically denied the al-
10 legations of paragraphs 21, 24, and 27 of the complaint which
11 allege that the EPA gave notice to Grace. (Defendant's Answer
12 and Jury Demand, pp. 2-3.)

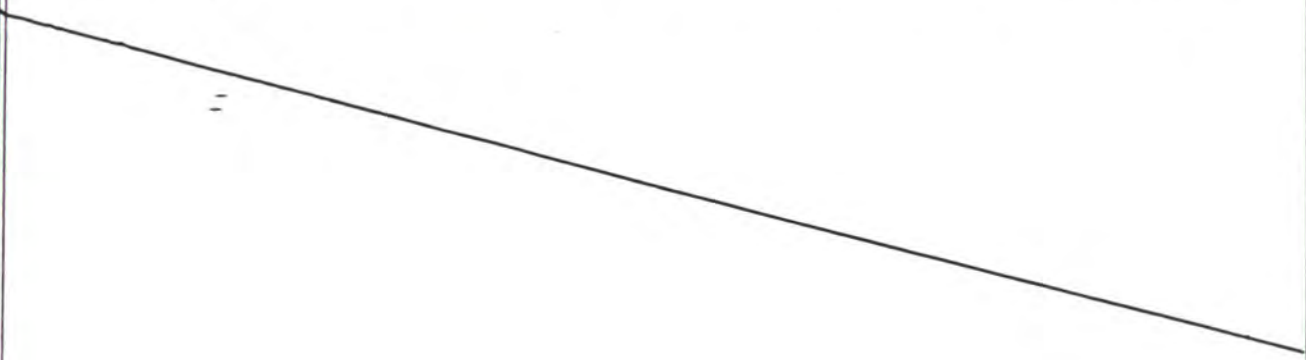
13 The facts regarding the giving of the notice may very
14 well be undisputed. The language of the notice is before the
15 Court. Grace contends that the notice did not meet the require-
16 ments of the EPA regulations. It did not provide a statement of
17 the consequences of failure to make timely filing of the
18 applications.

19 40 CFR § 144.25(4)(b) contains the requirements for
20 notice of the "call-in". Among other things, the regulation
21 provides that the notice must contain "a statement of the
22 consequences . . . of failure to submit an application. . . ."
23 The letter of June 25, 1984, which is attached as Exhibit C to
24 our initial brief, did not contain a fair statement of the
25 consequences, i.e., the possibility of a fine of up to \$5,000

1 per day per well.

2 Compare the June 25, 1984, letter in this case with
3 other call-in notices given by the EPA under the UIC program.
4 Other letters give complete statements of the consequences.
5 Several examples are contained in the government's attachments
6 to its Answers to Defendant's First Interrogatories and Requests
7 for Production: notice to Amoco Production Co., attachment 5 to
8 answer to Interrogatory No. 7; notice to T. O. Kelly, attachment
9 6 to answer to Interrogatory No. 7; and form notice for Region
10 V, attachment 7 to answer to Interrogatory No. 7. Copies of
11 these documents have been attached to this brief as exhibits
12 "A", "B" and "C" for the Court's convenience.

13 The government, in its motion for summary judgment,
14 simply assumes that its notice is adequate. It has not, as re-
15 quired by the United States Supreme Court, identified the legal
16 issues which have been raised by the pleadings; has not borne
17 "the initial responsibility of informing the district court of
18 the basis for its motion," has not identified the contested is-
19 sues raised by the pleadings; and has not briefed the issues to
20



1 assist the district court in reaching a decision or to enable
2 Grace to ~~r~~espond.

3 2. Jurisdiction and Authority to Sue.

4 In paragraph 2 of the complaint, the United States al-
5 leges that this Court has jurisdiction of the subject matter of
6 this action pursuant to several statutes, including 42 U.S.C. §
7 300h-2(b)(1). The United States goes on to allege that it is
8 authorized to bring this action pursuant to 42 U.S.C. § 300h-
9 2(a)(2). (Complaint, p. 2.) In its answer, Grace alleges that
10 jurisdiction, if present, is conferred upon the district court,
11 but admits only that this action arises under 42 U.S.C. § 300h-
12 2(b)(1), the statute referred to in the complaint. Grace denies
13 in its answer that the United States is authorized to bring this
14 action pursuant to 42 U.S.C. § 300h-2(a)(2), as alleged in the
15 complaint. (See Answer and Jury Demand, p. 2.) Thus, both the
16 propriety of the action under 42 U.S.C. § 300h-2(b)(1) and the
17 authority of the United States under 42 U.S.C. § 300h-2(a)(2)
18 have been placed in issue by the pleadings. The government has
19 ignored these contested matters in its motion for summary judg-
20 ment.

21 The significance of the issues raised by the pleadings
22 becomes apparent with a reading of the statutes in question.
23 The full text of the statutes is attached as Exhibit "D" to this
24 brief. The Court will note that the United States alleges as
25 the basis for jurisdiction the provisions of subsection 2(b)(1).

1 That provision, however, empowers the administrator to bring a
2 civil action only when authorized by subsection (a). The appli-
3 cable portion of subsection (a) is part (2), which pertains to
4 periods during which a state does not have primary enforcement
5 responsibility for underground water sources. Subsection (a)(2)
6 expressly states that the administrator may commence a civil ac-
7 tion under subsection (b)(1).

8 Looking to subsection (b)(1), a substantial question
9 arises as to whether any penalty can be imposed. That subsec-
10 tion permits the imposition of the \$5,000 daily penalty only in
11 the case of an action brought against a person who is located in
12 a state which has primary enforcement responsibility. Likewise,
13 the penalty can be imposed under subsection (b)(1) only if the
14 person violates this requirement after the expiration of 60 days
15 after receiving certain additional notice under subsection
16 (a)(1), which notice was clearly not given in the present case.
17 Thus, the government has specifically alleged that it is pro-
18 ceeding under subsection (b)(1), as it is required to do by the
19 statute, but the provisions of subsection (b)(1) do not permit
20 the imposition of any penalty in this case. This issue, al-
21 though raised by the admissions and denials of the answer, is
22 not in any way mentioned or discussed in the government's motion
23 for summary judgment or its brief.

24 3. Extension of Time for Filing.

25 The complaint of the United States alleges that Grace

1 continued to inject "despite termination of its legal authority
2 to do so." (Complaint, ¶¶ 22, 25, and 28.) These allegations
3 are denied by Grace in its answer. (Answer and Jury Demand, pp.
4 2,3.) Thus, the issue of the termination of Grace's authority
5 to inject is clearly placed in issue by the pleadings.

6 This issue has two parts. The first pertains to the
7 three-day extension under 40 CFR 124.20(d) and is the subject of
8 Grace's initial motion for summary judgment. A second aspect of
9 this issue is presented, however, by the testimony and affidavit
10 of Matt Strever, a former Grace employee, that William Engle
11 granted an extension of time in which Grace could file its ap-
12 plication. (Strever depo., pp. 28-30, 43-53, 57-60, 67-70, 88-
13 90; Affidavit of Strever, Exhibit 3, pp. 28-30.) Engle, whose
14 deposition has been taken, denies that any extension was
15 granted, but nevertheless a genuine issue of material fact is
16 created by the deposition testimony and affidavit of Matt
17 Strever.

18 If an extension of time was granted, then Grace's au-
19 thority to inject continued or was reinstated. This is appar-
20 ently what happened with at least three other owners whose
21 applications were filed after the initial deadline had expired.
22 These parties were Murphy Oil; Superior Oil, and then later
23 Mobil Oil, who purchased the well from Superior; and Amoco. See
24 answer to Interrogatory 42 and attachment 5 to answer to Inter-
25 rogatory 7, Answers to Defendant's First Interrogatories.

1 The government has the burden of proving that Grace's
2 authority ~~terminated~~ and was not continued or reinstated. A
3 genuine issue of material fact exists as to this question.
4 Thus, summary judgment is clearly inappropriate.

5 4. Estoppel.

6 Grace has raised the issue of estoppel as an affirma-
7 tive defense in its answer (Answer and Jury Demand, p. 3.)
8 Again, genuine issues of material fact are raised by the testi-
9 mony of Matt Strever on the issue of estoppel. This is another
10 issue, however, which is completely ignored by the United States
11 in both its motion for summary judgment and the supporting
12 brief.

13 Matt Strever has described a number of conversations
14 which took place with Bill Engle. (Strever depo., pp. 28-30,
15 43-53, 57-60, 67-70, 88-90; affidavit of Strever, exhibit 3, pp.
16 28-30.) Although Engle denies some of these conversations, is-
17 sues of fact are clearly presented. The government has not met
18 its initial responsibility and obligation to inform the district
19 court of the basis for its entitlement to summary judgment in
20 light of the affirmative defense of estoppel.

21 5. Selective Enforcement.

22 A question exists as to whether the issue of selective
23 enforcement is raised by the denials contained in Grace's An-
24 swer. Selective enforcement is a question of constitutional due
25

1 process. Perhaps it should be raised affirmatively in the An-
2 swer.

3 Grace believes that an issue of selective enforcement
4 may ultimately be raised in this case, but discovery is not yet
5 sufficiently complete on this issue. It was the hope of Grace
6 that the case might be resolved by its Motion for Summary Judg-
7 ment, or otherwise, before Grace was required to undertake what
8 promises to be extensive and costly discovery. Grace has now
9 made arrangements for the additional discovery by serving no-
10 tices of the taking of depositions of a number of EPA employees
11 involved in processing Grace's application.

12 There is already evidence in the record that others
13 similarly situated to Grace were not subjected to actions for
14 civil penalties. Companies such as Murphy Oil, Ajax Petroleum,
15 Superior Oil Company, Mobil Oil Company, and Amoco Oil Company
16 all failed to meet the deadline and did not comply with the ap-
17 parent, but unwritten, EPA requirement that a written request
18 for an extension be made prior to the termination of authority.
19 We believe a defense of selective enforcement may well be in or-
20 der, but the record at this time may not present a genuine issue
21 of material fact. We therefore request, on behalf of Grace,
22 that additional time be given to complete discovery on this is-
23 sue, after which a motion to amend Grace's answer will be made
24 if warranted.
25

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0

2
3
4
5
6
7
8

9
0
1
2
3
4
5
6
7
8
9
0

1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 26

1 dence. The government's motion, under these circumstances, is
2 clearly without merit and should be denied.

3 Dated this 22 day of June, 1987.

4 CROWLEY, HAUGHEY, HANSON,
5 TOOLE & DIETRICH

6 By Jack Ramirez
7 Jack Ramirez

8 By James P. Sites
9 James P. Sites
10 P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

11 Defendant requests oral argument on its motion for
12 summary judgment and on the plaintiff's cross-motion for summary
13 judgment.

14 CERTIFICATE OF SERVICE

15 I hereby certify that on the 22 day of June,
16 1987, I mailed a copy of the foregoing to the following counsel
17 of record:

18 F. Henry Habicht, II
19 Assistant Attorney General
20 Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

21 Brian G. Donohue
22 Attorney, Environmental Enforcement
23 Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

1 Bryan H. Dunbar
2 United States Attorney
3 George F. Darragh, Jr.
4 Assistant United States Attorney
5 P. O. Box 3446
6 Great Falls, Montana 59403

James P. Darragh, Jr.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JUL 30 1984

Amoco Production Co.
10850 Traverse Highway
Traverse City, MI 14968

Dear Sir:

The U. S. Environmental Protection Agency (EPA) Region III began implementing the Underground Injection Control (UIC) Program for the Commonwealth of Pennsylvania on June 25, 1984. All injection facilities in the Commonwealth of Pennsylvania must now comply with the requirements of this new Federal program, which is separate and in addition to any State or local requirements. The UIC Program regulations at 40 CFR Part 144, Section 144.11, state that "any underground injection, except as authorized by permit or rule issued under the UIC Program, is prohibited [emphasis supplied]." Under the UIC Program, the rule is a general regulation that specifies the conditions and standards under which certain types of injection operations may be conducted by the regulated community. A UIC permit, on the other hand, provides individual authorization to operate a specific facility under the conditions and limitations specified in the permit.

Our records indicate that you operate and/or own an existing injection facility used to dispose of fluids brought to the surface in conjunction with oil and gas production or treatment, which has been designated as a Class II D facility under the UIC Program. By this letter, I am notifying you that you must submit a permit application to EPA within 60 days of receipt of this letter. I have enclosed a permit application and other relevant forms for your use. You must fill out the UIC Permit application (Form 7520-6) and submit the information required in Attachments A, B, C, E, G, H, I, J, K, L, M, O, P, Q, and R. The instructions for these attachments are found in the permit application. I strongly urge you to request a pre-application conference with EPA at your earliest convenience. This is a highly informative, very helpful forum for us to explain the UIC requirements. As a rule, pre-application conferences are held in our offices in Philadelphia.

The UIC Program for the Commonwealth of Pennsylvania encompasses all injection wells associated with the production and storage of oil and gas (Class II), including produced fluid disposal wells (Class II D), hydrocarbon storage wells (Class II H), and enhanced recovery injection wells (Class II R), and others. Existing Class II D wells (wells which began injection before June 25, 1984) are authorized to operate under rule for up to five years after the effective date of the program or until such time EPA issues notice that a permit is required. In Pennsylvania, these wells must:

CONCURRENCES

SYMBOL								
SURNAME								
DATE								

- Comply with the appropriate operating, monitoring, reporting, and abandonment requirements of rule authorization described in Section 144.28 no later than one year after the effective date, in this case June 25, 1984, of the UIC Program (Section 144.21(c)). Mechanical integrity testing shall be performed at least once every five years during the life of the injection well and as a part of the permitting process (Section 146.23).
- Apply for a permit upon written notice given herewith from EPA and within the timeframe specified by EPA. Section 144.25 of the UIC Program regulation provides EPA the authority to require that Class I, Class II (except enhanced recovery and hydrocarbon storage), or Class III injection wells authorized by rule apply for a permit in accordance with a schedule established pursuant to Section 144.31(c). EPA Region III has placed Class II D (produced fluid disposal) wells as top priority on EPA Region III's permit schedule for Pennsylvania in order to provide the maximum protection to underground sources of drinking water (USDW's) afforded by the site-specific analyses, limitations, and conditions of the permitting process. EPA Region III intends to permit all Class II D wells in Pennsylvania within one year of the June 25, 1984 effective date.
- Comply with all the operating monitoring, reporting, and abandonment requirements in the permit conditions in the schedule established by the permit, once issued by EPA Region III.

You may continue to operate your injection facilities under authorization by rule as long as your injection facilities are in compliance with the UIC Program regulations for rule-authorized Class II D wells and a permit application is pending. Once a permit is issued, you must comply with the limitations and conditions specified in the permit. If you fail to submit a permit application within the timeframe specified by this notice, you will lose rule authorization to operate an injection facility. As a result, underground injection would be prohibited at your facility as specified by the UIC Program regulations at 40 CFR, Part 144, Section 144.11. EPA's denial of your permit application would also result in loss of rule authorization. Enforcement action may be taken by EPA should you fail to comply with the requirements of the UIC Program. The potential penalties are outlined in Section 1423 of the Safe Drinking Water Act. Any person who violates any UIC requirement shall be subject to a civil penalty of not more than \$5,000 for each day of such violation. If the violation is willfully committed, it is classified as a criminal violation and may result in a fine of not more than \$10,000 for each day of such violation.

CONCURRENCES

SYMBOL							
SURNAME							
DATE							

My staff and I would be pleased to provide you with assistance and to answer any questions that may arise. Please feel free to contact Charlie Kleeman at 215/597-2537 or George Hoessel at 215/597-9031.

Sincerely,

Jon Capacasa, Acting Chief
Water Supply Branch (3WM40)

Enclosures

bcc: John Cooper

CONCURRENCES						
SYMBOL	3WM43	3WM43	BRC00	3WM43		
SURNAME	MACKNIGHT	KLEEMAN	COOPER	CAPACASA		
DATE	SSM 7/13	7/16/81	BRC 7/21/81	7/15/81		

JUL - 1 1986

1 1986

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. T. O. Kelly, President
Tokel, Inc.
P. O. Box 595
Waynesboro, Mississippi 39367

Dear Mr. Kelly:

Recently the EPA acted to require operators of Wilcox disposal wells in the Heidelberg field, Jasper County, Mississippi to cease injection and plug and abandon such wells. EPA determined the Wilcox in that field to be an Underground Source of Drinking Water (USDW) which was being endangered by ongoing brine disposal.

The Agency now intends to expand its investigations and actions to surrounding fields where Wilcox injections are taking place. The Wilcox is very likely to be a USDW in these areas as well.

Based on our review of your recent injection well inventory submission the following well operated by you injects into the Wilcox:

<u>Well</u>	<u>Field</u>	<u>County</u>
#1 T. F. Hodge	Cypress Creek Field	Wayne

EPA is authorized by 40 C.F.R. §144.25 to require the operator of any well authorized by rule to apply for and obtain an EPA Underground Injection Control (UIC) permit. Accordingly, a complete application is due from you for the listed well within ninety (90) days of receipt of this letter. Enclosed is an application form, completion guidance and supporting materials. In lieu of a permit application you may propose to cease injection through the well by the ninety day deadline and plug and abandon the well according to a reasonable schedule. Please notify us of your intentions within thirty (30) days.

Injection activities are no longer authorized by rule upon the effective date of a permit or permit denial or upon your failure to submit an application by the deadline. Unauthorized injection is a violation of EPA's UIC regulations and is subject to enforcement action for the initiation of civil proceedings which can result in penalties of up to \$5,000 per day of the violation; if the violation is willful, a criminal fine of up to \$10,000 per day may be imposed in lieu of the civil penalty.

If you have any questions concerning the information requirements, please contact Mr. Michael R. Hollinger, Chief, UIC Permits Unit at (404) 347-3866.

Sincerely yours,

/s/ Jack E. Ravan
Regional Administrator

Jack E. Ravan
Regional Administrator

Enclosure

cc: MS Oil and Gas Board

4WM-GP:THOMAS:WC:3866:6-27-86:Disk 18



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

REF ID: A540-13
REL TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

[Adr]

Dear [Name]:

The Underground Injection Control (UIC) program was established under the authority of Part C of the Safe Drinking Water Act (SDWA) (42 U.S.C. §300f et seq), with the objective of protecting the Nation's underground sources of drinking water (USDW). The program involves the regulation of all underground injection of liquid wastes, produced brines and solution mining liquids. The U.S. Environmental Protection Agency (EPA) regulations for the UIC program became effective June 25, 1984.

Pursuant to 40 CFR (Code of Federal Regulations) Section 144.25, you are hereby required to submit a complete permit application for the salt water disposal (Class II D) well(s) [1].

These permit applications are being called in on a schedule established pursuant to 40 CFR §144.31 (c), so that all wells will be permitted within five (5) years from the effective date of the Federal UIC program. Your completed permit application on each Class II salt water disposal well mentioned above must be submitted within thirty (30) days from the receipt of this letter.

Under the Regulations the injection activities are no longer authorized by rule upon the effective date of a permit or permit denial, or upon failure by the owner or operator to submit an application in a timely manner as specified in this request.

You should be aware that the SDWA provides for a civil penalty of \$5,000 per day, or a criminal penalty of \$10,000 per day, should you fail to submit a complete permit application by the required date. Also, continued operation without submittal of a complete permit application by the required date is a violation of 40 CFR §144.11 subject to the same penalties and possible civil action.

Enclosed is a sample permit application, a blank permit application and a copy of the UIC regulations. A permit workshop has been set up for
[2] at
[3]

Please contact Michael Gentleman of my staff at (312) 886-1507 if you should have any further questions concerning these permit applications.

Sincerely yours,

Charles H. Sutfin
Director, Water Division

Enclosures

bcc: Sutfin
Bryson
Harrison
Attermeyer

42 USCS § 300h-1

PUBLIC HEALTH SERVICES

(b) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing. (1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 [42 USCS § 300h] (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421 [42 USCS § 300h]; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 1421 [42 USCS § 300h] revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) Program by Administrator for State without primary enforcement responsibility; restrictions. If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the

PUBLIC WATER SYSTEMS

42 USCS § 300h-2

period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b) [42 USCS § 300h(b)]. Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas.

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) "Applicable underground injection control program" defined. For purposes of this title [42 USCS §§ 300f et seq.], the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c).

(July 1, 1944, c. 373, Title XIV, Part C, § 1422, as added Dec. 16, 1974, P. L. 93-523, § 2(a), 88 Stat. 1676; Nov. 16, 1977, P. L. 95-190, § 6(a), 91 Stat. 1396.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1977. Act Nov. 16, 1977, in subsec. (b)(1)(A), inserted "The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days."

§ 300h-2. Failure of State to assure enforcement of program

(a) Notice to State and violator; public notice; civil action, conditions. (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3) [42 USCS § 300h-1(b)(3)]) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15

days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

(b) **Judicial determinations in appropriate Federal district courts; civil penalties; separate violations; penalties for willful violations.** (1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed \$5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than \$5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than \$10,000 for each day of such violation.

(c) **State authority to adopt or enforce laws or regulations respecting**

underground injection unaffected. Nothing in this title [42 USCS §§ 300f et seq.] shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title [42 USCS §§ 300f et seq.].

(July 1, 1944, c. 373, Title XIV, Part C, § 1423, as added Dec. 16, 1974, P. L. 93-523, § 2(a), 88 Stat. 1677.)

§ 300h-3. Interim regulation of underground injections

(a) **Necessity for well operation permit; designation of one aquifer areas.**

(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date of which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b) **Well operation permits; publications in Federal Register; notice and hearing; issuance or denial; conditions for issuance.** (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a

Donohue, B

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES
L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

OF COUNSEL
CALE CROWLEY
JAMES M. HAUGHEY

June 22, 1987

LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER HANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. MILEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANDIN, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HASEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MARY S. YERGER
JON T. DYRE
DENNIS NETTISIMMONS
MICHAEL C. WALLER
SHARON NOVAK
ERIC K. ANDERSON
BRUCE A. FREDRICKSON
JEFFREY W. HEDGER
JOHN E. BOHYER
JANICE L. REHBERG

Mr. Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

Re: USA v. Grace Petroleum Corporation
Our File No. 41-175-13

Dear Mr. Donohue:

Mr. Ramirez has asked me to write to you to request that you send us documents which your answers indicate were enclosed with your response to our first interrogatories and requests for production, but which documents did not seem to be in the packet. The missing documents are the telephone memo sheets we asked for in Request No. 1 and the letter your answer indicates you produced in response to our Request No. 3 (a letter referred to by you at page 20 of the Engle deposition).

We would appreciate your forwarding copies of these documents as quickly as possible. We intend to file them with the court along with other discovery documents. Thank you.

Sincerely,

Becky Copple
Becky Copple
Legal Assistant to
Jack Ramirez

BC/bj

44-514-2383

44	DEPARTMENT OF JUSTICE	RECORD
	JUN 25 1987	
	LANDS	

LANDS DIVISION

6/22/87
Jack Ramirez
CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH
P. O. Box 2529
Billings, Montana 59103
406-252-3441
ATTORNEYS FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
Plaintiff,)	
)	
vs.	)	<u>MOTION FOR LEAVE TO FILE</u>
	)	<u>DISCOVERY</u>
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	

Defendant Grace Petroleum Corporation has filed a Motion for Summary Judgment. Defendant moves the Court for leave to file original discovery in order that the Court might consider Defendant's Motion for Summary Judgment.

With the Court's approval the Defendant will file the documents listed below:

1. Defendant's Answers to Plaintiff's First Interrogatories and documents attached thereto.

10-5-11-2383

44	DEPARTMENT OF JUSTICE	R
	JUN 25 1987	E
	LANDS	C
		O
		R
		D

2. Defendant's Answers to Plaintiff's First Requests for Production and documents attached thereto.

3. Plaintiff's Answers to Defendant's First Interrogatories and Requests for Production of Documents and documents attached thereto.

4. Defendant's Answers to Plaintiff's Second Set of Interrogatories and attachments thereto.

5. Original signed deposition of William E. Engle.

6. Exhibits to Engle deposition.

7. Original signed deposition of Judy N. Graham and exhibits attached thereto.

8. Original signed deposition of Matthew P. Strever and exhibits attached thereto.

It should be noted that Plaintiff's response to Request No. 1 of Defendant's First Requests for Production indicates that telephone memo sheets were attached and that Plaintiff's response to Request No. 3 of Defendant's First Requests for Production indicates that a letter referenced at page 20 of Engle's deposition was attached. These documents were not included in the material Defendant received from the Plaintiff. Defendant has requested Plaintiff's attorney to provide it with the documents and will forward them as soon as they are available.

DATED this 22 day of June, 1987.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By

Jack Ramirez

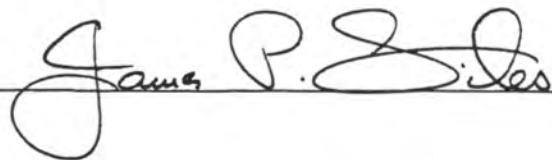
CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of June,
1987, I mailed a copy of the foregoing to the following
counsel of record:

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403

James P. Jones

Jack Ramirez
CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH
P. O. Box 2529
Billings, Montana 59103
406-252-3441
ATTORNEYS FOR DEFENDANT

6/22/87

Donohue, B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
Plaintiff,)
vs.) MOTION FOR LEAVE TO FILE
GRACE PETROLEUM CORPORATION,) DISCOVERY
Defendant.)

Defendant Grace Petroleum Corporation has filed a Motion for Summary Judgment. Defendant moves the Court for leave to file original discovery in order that the Court might consider Defendant's Motion for Summary Judgment.

With the Court's approval the Defendant will file the documents listed below:

1. Defendant's Answers to Plaintiff's First Interrogatories and documents attached thereto.

44-5-1-1-2383

DEPARTMENT OF JUSTICE	R
44 JUN 25 1987	E
LANDS DIVISION	C
POLLUTION/ENFORCEMENT	O
	R
	D

1 2. Defendant's Answers to Plaintiff's First Requests for
2 Production and documents attached thereto.

3 3. Plaintiff's Answers to Defendant's First Interroga-
4 tories and Requests for Production of Documents and documents
5 attached thereto.

6 4. Defendant's Answers to Plaintiff's Second Set of
7 Interrogatories and attachments thereto.

8 5. Original signed deposition of William E. Engle.

9 6. Exhibits to Engle deposition.

10 7. Original signed deposition of Judy N. Graham and
11 exhibits attached thereto.

12 8. Original signed deposition of Matthew P. Strever and
13 exhibits attached thereto.

14 It should be noted that Plaintiff's response to
15 Request No. 1 of Defendant's First Requests for Production
16 indicates that telephone memo sheets were attached and that
17 Plaintiff's response to Request No. 3 of Defendant's First
18 Requests for Production indicates that a letter referenced at
19 page 20 of Engle's deposition was attached. These documents
20 were not included in the material Defendant received from the
21 Plaintiff. Defendant has requested Plaintiff's attorney to
22 provide it with the documents and will forward them as soon
23 as they are available.

24 DATED this 22 day of June, 1987.

25 CROWLEY, HAUGHEY, HANSON,
 TOOLE & DIETRICH

By Jack Ramirez by gRde
 Jack Ramirez

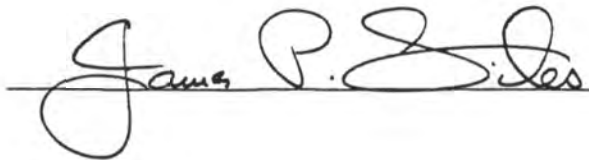
CERTIFICATE OF SERVICE

I hereby certify that on the 22 day of June,
1987, I mailed a copy of the foregoing to the following
counsel of record:

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Brian G. Donohue
Attorney, Environmental Enforcement
Section
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403

A handwritten signature in dark ink, appearing to read "James P. Sides", is written over a horizontal line.

1 Jack Ramirez
James P. Sites
2 Crowley, Haughey, Hanson,
Toole & Dietrich
3 P. O. Box 2529
Billings, Montana 59103
4 406-252-3441
5
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
13)
Plaintiff,)
14)
vs.)
15)
GRACE PETROLEUM CORPORATION,)
16)
Defendant.)
17

18 - - - - -
19 REPLY BRIEF OF DEFENDANT
20 GRACE IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT
21 AND ANSWER BRIEF OF GRACE
IN OPPOSITION TO PLAINTIFF'S
22 MOTION FOR SUMMARY JUDGMENT
23 - - - - -

24 The defendant, Grace Petroleum Corporation, has filed
25 a motion for summary judgment, seeking to isolate one simple,

1 narrow issue which appears to be dispositive of the case brought
2 by the United States. Discovery in the case thus far has con-
3 centrated on the issue presented in Grace's motion for summary
4 judgment. For the most part, other discovery has been postponed
5 pending a decision of this court.

6 In response to Grace's motion, the United States filed
7 a cross-motion for summary judgment on January 14, 1987. The
8 motion for summary judgment filed by the United States is essen-
9 tially a "mirror-image" of Grace's motion. Grace contends that
10 its applications for UIC permits were filed timely by virtue of
11 40 CFR 124.20(d). There appears to be no dispute between the
12 United States and Grace that Grace is entitled to summary judg-
13 ment if 40 CFR 124.20(d), applies to this case. 40 CFR
14 124.20(d) provides, of course, that whenever a party is required
15 to act within a prescribed period after the service of a notice
16 by mail, three days is added to the allowable time. Because the
17 EPA notices requiring UIC applications were mailed to Grace,
18 Grace contends the deadline for filing its UIC applications be-
19 came August 2, 1984. Grace's applications were filed on August
20 1, 1984, one day before expiration of the time for filing.
21 Grace therefore continued to enjoy authorization to inject under
22 the regulations throughout the period, up to September 28, 1984,
23 for which civil penalties are sought by the government, and is
24 thus entitled to summary judgment.

25 The converse, however, is not true. The United States

1 contends that if the three-day extension given by 40 CFR
2 124.20(d) is not applicable to the facts of the case, then the
3 United States is entitled to summary judgment. This is far from
4 the case, as subsequent discussion will demonstrate.

5 Grace, therefore, will present this brief in two
6 parts. First, Grace will reply to the argument of the United
7 States in opposition to Grace's motion for summary judgment.
8 Grace will then discuss the cross-motion filed by the United
9 States.

10 I.

11 ARGUMENT

12 UIC APPLICATIONS TIMELY
13 SUBMITTED UNDER APPLICABLE
14 ADMINISTRATIVE REGULATION

15 It is undisputed by the parties that 40 CFR 124.20(d)
16 applies to situations arising out of the administrative UIC per-
mitting process.¹ 40 CFR 124.20(d) provides:

17 "Whenever a party or interested person has
18 the right or is required to act within a
19 prescribed period after the service of no-
20 tice or other paper upon him or her by mail,
three (3) days shall be added to the pre-
scribed time."

21 While the above-cited regulation is similar to Rule
22 6(e), the regulation, not Rule 6(e), applies to this case.

23 The Federal Register Comment published at the time of
24

25 ¹40 CFR 124.1, complaint paras. 8 and 10; Cross-Motion Memorandum, p. 10.

1 the adoption of 40 CFR 124.20, states this section of federal
2 regulations was ". . . to include methods for computing time
3 that conform with the Federal Rules of Civil Procedure." 45
4 F.R. 33412, May 19, 1980. (Emphasis supplied.) (See Cross-
5 Motion Memorandum, p. 10.) The Comment shows the administrative
6 intention underlying the regulation was broader than the related
7 federal procedural rule, Rule 6(e).

8 What is solely involved in this motion for summary
9 judgment is establishing the time period for completion of an
10 administrative act. The procedural regulation, 40 CFR
11 124.20(d), is promulgated by EPA for guidance of the public.
12 The Court in Call v. Heckler, 647 F.Supp. 560 (D. Mont. 1986)
13 (Hatfield, J.) has already spoken as to the yardstick to be used
14 (at 647 F.Supp. 563):

15 "Within certain parameters, courts must gen-
16 erally accord substantial deference to ad-
17 ministrative agencies in areas such as fact-
18 finding, Estep v. Richardson, 459 F.2d 1015
19 (4th Cir. 1972), and policy-making, I.C.C.
20 v. Inland Waterways Corp., 319 U.S. 671,
21 691, 63 S.Ct. 1296, 1307, 87 L.Ed. 1655
22 (1943). No such tolerance, however, is re-
23 quired in matters pertaining strictly to an
24 agency's observance and implementation of
25 its self-prescribed procedures. The courts,
to protect due process, must be particularly
vigilant and must hold agencies, such as the
Social Security Administration, to a strict
adherence to both the letter and the spirit
of their own rules and regulations. Powell
v. Heckler, 789 F.2d 176 (3rd Cir. 1986)."

24 The government in its responding brief has turned
25 around the rule of construction in administrative matters estab-

1 lished by this Court. The government does not face up to the
2 fact that it will be held to a strict adherence to both the let-
3 ter and spirit of its administrative regulation, 40 CFR
4 124.20(d).

5 Counsel for the United States in its cross-motion mem-
6 orandum invites the Court to consider a number of inapposite
7 cases construing Rule 6(e). (See Cross-Motion, pp. 11-13.) In
8 so doing, the government has confused the present issue, avail-
9 able time for completion of an administrative act, with waiver
10 of sovereign immunity to suit and notions of jurisdiction. In
11 Carr v. Veterans Administration, 522 F.2d 1355 (5th Cir. 1975),
12 the applicable statute of limitations, waiving sovereign immu-
13 nity to suit, specified that an action be begun within six
14 months after the date of mailing. A computational rule, Rule
15 6(e), was held not to expand the statutory grant to sue the
16 sovereign. A rule of strict construction is typically imposed
17 on waivers of sovereign immunity to suit, not on the government,
18 but on the private party. This is absolutely the reverse of how
19 the strict construction standard at bar is to be viewed.

20 In the same vein, the holding of Goff v. Pfau, 418
21 F.2d 649 (8th Cir. 1969), recognized that the time for appeal
22 under the Bankruptcy Act started to run from entry of the order
23 which was sought to be reviewed. Again, service was not an im-
24 portant event. In Army and Air Force Exchange v. Hanson, 250
25 F.Supp. 857 (D. Hawaii 1966), the time for initiating a review

1 to a compensation order entered under the Longshoremen's and
2 Harbor Workers' Compensation Act was 30 days after filing, or
3 entry, of the underlying compensation order. The Court in Flint
4 v. Howard, 464 F.2d 1084 (1st Cir. 1973), rejected a petition
5 for rehearing. One of the grounds advanced for rehearing in-
6 volved the time allowed for motions for reconsideration under
7 Rules 52 or 59, F.R.Civ.P. The Court found that the ten days
8 provided for in the Rules of Civil Procedure, within which such
9 a motion must be filed, runs from the entry of judgment. Once
10 more, service was not a factor.

11 Where an order of court requires action within a pe-
12 riod of time, whether Rule 6(e) applies, or not, appears to be
13 somewhat uncertain. Compare Bell & Howell Acceptance Corp. v.
14 Wolverine Mailing, 107 FRD 116 (E.D. Mich. 1985) (Rule 6(e) ap-
15 plied), with Clements v. Florida East Coast Railway Company, 473
16 F.2d 668 (5th Cir. 1973), (while declining to apply Rule 6(e), a
17 district court decision vacated and remanded.)

18 There is not a shred of authority we are aware of to
19 support the bald contention of the government (Cross-Motion
20 Memorandum, p. 10) that Rule 6(e) does not apply when a specific
21 deadline is imposed for some act. To the contrary, Rule 6(e)
22 has been applied where some act must be done on a certain date
23 after mail service. See, e.g., In re Stephens, 211 F.Supp. 201
24 (S.D. Tex. 1961).

25 Equally without foundation is its asserting that Rule

1 6(e) is "reserved strictly" to cases where a "time period for
2 filing dependent upon the date of service by mail" is involved
3 (Cross-Motion Memorandum, p. 11). This case involves precisely
4 a time period and service by mail. If that is so, Rule 6(e)
5 should apply and administrative regulation 40 CFR 124.20(d) cer-
6 tainly applies.

7 Research has revealed no case law construing 40 CFR
8 124.20(d). The heading for our argument in our opening brief -
9 "add three days if notices mailed" - was taken from the course
10 manual developed for EPA by the T. A. Minto Group, Oklahoma
11 City, and presented to governmental personnel, including William
12 Engle, attending two UIC permit training seminars. Two were
13 held in 1984 by EPA for its employees involved in the UIC per-
14 mitting process, one seminar in Denver and the other in Atlanta.

15 40 CFR 124.20(d) is succinctly interpreted by EPA in
16 the course manual (Exhibit D to Grace's opening brief) to add
17 three days if notice is mailed. The manual states:

18 "Section 124.20 Computation of time.

19 "(a) Time period starts the day after ac-
20 tual event occurs (SC-Specifics)

21 "(b) Time period starts on day before act
or event (SC-Specifics)

22 "(c) If final date is weekend or holiday -
23 day after

24 "(d) Add three days if notices mailed
(Emphasis supplied.) (page 24 Course Man-
25 ual, 'A SUMMARY OF PART 124 SUBPART A,' con-

1 tained in Attachment 14, attached to Grace's
2 opening brief.)

3 Government counsel objects on the basis that the man-
4 ual interpretation of 40 CFR 124.10(d) is "merely shorthand" and
5 cannot "change the clear language" of the administrative regula-
6 tion. (See Cross-Motion Memorandum, p. 14.) The manual inter-
7 pretation does not change, but is consistent with, the language
8 of 40 CFR 124.20(d), which clearly provides for the addition of
9 three days to the prescribed time after service by mail.²

10 The EPA notice of June 25, 1984 (Exhibit C to Grace's
11 opening brief) requested that the UIC applications be submitted
12 "by July 30, 1984." Although the time for compliance was fixed
13 by reference to a particular date, this language created a pre-
14 scribed period or prescribed time in which the applications were
15 to be filed, just as much as if a number of days had been given.

16 Counter to the government's allegation that Grace pre-
17 sented immaterial and irrelevant arguments in its opening brief,
18 it is important to clearly and fully present the context of
19 events in which the UIC permit application request arose.

20 Unlike statutorily enacted grants to sue the govern-
21 ment, nowhere in the federal regulations or law could Grace look
22 to ascertain why July 30, 1984, was chosen. In fact, it was
23 chosen by the EPA Regional Administrator for Region VIII. The

24
25 ²To the extent the language of the regulation may be regarded as
unclear, the manual interpretation is relevant to disclose the
underlying administrative intention.

1 willy-nilly manner in which time periods were set is reflected
2 by Exhibit A to Grace's opening brief. It shows that others
3 subsequently required (by way of "call-ins" established by EPA)
4 to submit UIC applications were given much more time for compli-
5 ance, by the same Regional Administrator. Exhibit A reflects
6 that the time period given in the February 5, 1985, call-in was
7 generally 55 days. More recently than that, the time period has
8 generally been between 84 and 92 days. This is a far cry from
9 immutable time periods fixed by statute. EPA approached grant-
10 ing extensions in its time periods for submission of UIC appli-
11 cations in an equally inconsistent manner.

12 Yet, in this case, EPA quarrels with granting Grace
13 the three additional days the administrative regulation says
14 Grace, or anyone, is entitled to. What EPA created, by the very
15 language of its notice of June 25, 1984, was a prescribed
16 "period" or prescribed "time" in which Grace was to act. The
17 notice itself refers to the need to submit UIC permit applica-
18 tions "within the time period specified in this notice."

19 40 CFR 124.20(d) clearly adds three days where there is such a
20 prescribed period and notice is sent by mail.

21 The whole point of computation of time rules, like 40
22 CFR 124.20(d) and Rule 6(e), F.R.Civ.P., is to create parity be-
23 tween those served by mail and personally. Cf. Norris v.
24 Florida Department of Health and Rehabilitative Service, 730
25 F.2d 682 (11th Cir. 1984). The government recognizes this

1 (Cross-Motion Memorandum, p. 11) but fails to apply it to this
2 case. If Grace had been served personally on June 25, with the
3 letter dated June 25, 1984, under the government's reasoning
4 Grace would have had until July 30 to comply. Since the letter
5 of June 25, however, was sent by mail, the addition of three
6 days to the prescribed time implements the very purpose of the
7 computation of time rule by equalizing the allowable time be-
8 tween those served by mail and those served personally. Any
9 other interpretation renders 40 CFR 124.20(d) a meaningless reg-
10 ulation.

11 EPA's wooden approach is graphically illustrated by
12 what actually happened here. The government in response to in-
13 terrogatories answered that Grace had 35 days in which to re-
14 spond to EPA's notice of June 25, 1984, requiring UIC permit
15 applications. The notice was date stamped as received on June
16 27th and UIC permit applications were mailed by Grace on the
17 35th day, August 1, 1984. Trying to exalt form--a "deadline"
18 date--over substance, the government now seeks to deny to Grace
19 even 35 days in which to do its UIC permit applications. It
20 does not want to give any consideration for mailing time, even
21 though the notice was served by mail. By way of attempted
22 analogies to other areas of the law, United States Counsel en-
23 shrines the July 30, 1984, deadline as if it were chiseled in
24 concrete, as if it were a grant to sue the Sovereign.

25 This is not only out of step with the law but also at

1 odds with the administrative scheme.

2 40 CFR 144.25(4)(b) contains the requirements for no-
3 tice³ of the "call-in". This regulation provides that:

4 "[t]he notice shall include . . . a state-
5 ment setting a time for the owner or opera-
6 tor to file the application. . . ."
(Emphasis supplied.)

7 The computation of time regulation refers to the addi-
8 tional three days being added whenever there is a "prescribed
9 period" or "prescribed time". The above-quoted regulation gov-
10 erning notices, 40 CFR 144.25(4)(b), provides that the govern-
11 ment must set a "time" for the filing of the application. The
12 word prescribed simply means required; therefore, setting a
13 "time" must necessarily create a prescribed time.

14 The notice regulation, 40 CFR 144.25(4)(b), required a
15 prescribed time. If the letter of June 25, 1984, complied with
16 the notice regulation, then the setting of a "deadline" must
17 also have created a prescribed time, and clearly under these
18 circumstances the three-day regulation would apply by its terms.
19 If the government contends that the letter did not set a pre-
20 scribed "time", but merely a "deadline", then the notice did not
21 meet the requirements of 40 CFR § 144.25(4)(b).

22 ³The notice in this case is seriously defective in that it fails
23 to contain ". . . a statement of the consequences of . . . fail-
24 ure to submit an application. . . ." There is no mention of the
25 financial consequences, i.e., a civil penalty fine of up to
\$5,000 per day per well. On this ground, inadequacy of notice,
Grace will move for summary judgment, should its motion on the
present ground be denied.

1 The government obviously intended to comply with the
2 notice regulation. It clearly intended to set a prescribed
3 time. This is evidenced by its own statement in the letter of
4 June 25 that the applications needed to be filed "within the
5 time period specified in this notice." Thus, if the notice is
6 to be construed to have met the requirements of the notice regu-
7 lation, and if the government's own characterization of its let-
8 ter is accepted, there clearly was a prescribed period or pre-
9 scribed time created. The three-day regulation, 40 CFR
10 124.20(d), also must apply to make the federal regulatory sec-
11 tions internally consistent and meaningful.

12 Rather than Grace acting "desperately" (Cross-Motion
13 Memorandum, p. 15), it appears that the government is trying
14 mightily to avoid the plain meaning of its own regulation, 40
15 CFR 124.20(d), and the unambiguous interpretation of the regula-
16 tion which is reflected in the training course manual. Its
17 "desperation" is reflected in its eleventh hour attempt to in-
18 terject a new requirement, in the alternative, unsupported by
19 the evidence. This is that the applications should have at
20 least been postmarked by July 30, 1984, "or received by August
21 2, 1984." (Cross-Motion Memorandum, pp. 15-16.) Timely mailing
22 constitutes timely filing. (Engle depo., pp. 55-56.) There is
23 nothing remarkable in that admission by the government, since it
24 simply reflects a general rule, which United States Counsel rec-
25 ognizes elsewhere (Cross-Motion Memorandum, pp. 10-11), that

1 vice by mail is complete upon mailing.

2 The regulation is to be interpreted generously, not
3 meanly and incorrectly. Simply stated, under 40 CFR 124.20(d)
4 Grace plainly had three additional days in which to submit its
5 UIC permit applications. Grace's applications were therefore
6 timely filed, and Grace is entitled to summary judgment.

7 II.

8 THE UNITED STATES IS NOT ENTITLED TO SUMMARY
9 JUDGMENT, EVEN IF THE COURT DETERMINES
10 THAT THE THREE-DAY EXTENSION OF
11 40 CFR 124.40(d) IS INAPPLICABLE TO THIS CASE.

12 The motion for summary judgment filed by the United
13 States is spurious. It is obviously been filed as a tactical
14 display of bravado; the motion contains a multitude of fatal
15 flaws and defects. The United States does not begin to analyze
16 the issues created by the pleadings. It has completely ignored
17 a number of issues raised by Grace's answer. The United States
18 does not even begin to identify, let alone discuss, the disputed
19 issues which the Court must determine in order to ultimately
20 find in favor of the government.

21 The burden placed upon a moving party in a motion for
22 summary judgment has been set forth frequently by both this
23 Court and the Ninth Circuit Court of Appeals. In the recent
24 case of Richards v. Nelson Freight Lines, 810 F.2d 898 (9th Cir.
25 1987), the Court stated:

" . . . The moving party must establish that
no genuine issue of material facts exists

1 and that it is entitled to judgment as a
2 matter of law. Northrop Corp. v. McDonnell
3 Douglas Corp., 705 F.2d 1030, 1050 (9th
4 Cir.), cert. denied, 464 U.S. 849, 104 S.Ct.
5 156, 78 L.Ed.2d 144 (1983);
6 Fed.R.Civ.P.56(c). The moving party bears
7 the initial burden to show the absence of a
8 material and triable issue of fact; the bur-
9 den then moves to the opposing party, who
10 must present significant probative evidence
11 tending to support its claim or defense.
12 General Business Systems v. North American
13 Philips Corp., 699 F.2d 965, 971 (9th Cir.
14 1983) (quoting First National Bank v. Cities
15 Service Co., 391 U.S. 253, 290, 88 S.Ct.
16 1575, 1593, 20 L.Ed.2d 569 (1968))."

810 F.2d at 902.

10 In Celotex Corporation v. Catrett, 477 U.S. ___, 106
11 S.Ct. ___, 91 L.Ed.2d 265 (1986), the United States Supreme
12 Court adopted a somewhat more lenient burden on a party seeking
13 summary judgment. In that case, four of the Justices determined
14 that summary judgment can be entered against a party who fails
15 to make a sufficient showing of a genuine issue of fact on an
16 essential element as to which that party has the burden of
17 proof. The moving party, however, is not relieved of the obli-
18 gation to the court to justify entry of summary judgment in its
19 favor. The Court stated:

20
21 "Of course, a party seeking summary judgment
22 always bears the initial responsibility of
23 informing the district court of the basis
24 for its motion, and identifying those por-
25 tions of 'the pleadings, depositions, an-
swers to interrogatories, and admissions on
file, together with the affidavits, if any,'
which it believes demonstrate the absence of
a genuine issue of material fact."
(Emphasis supplied.)

1 91 L.Ed.2d at 274.

2 Justice White, whose concurring opinion provided a ma-
3 jority necessary for reversal of the Court of Appeals decision,
4 also noted:

5 "[T]he movant must discharge the burden the
6 rules place upon him: It is not enough to
7 move for summary judgment without supporting
8 the motion in any way or with a conclusory
9 assertion that the plaintiff has no evidence
10 to prove his case."

11 91 L.Ed.2d at 277.

12 In the present case, the government has not supported
13 its motion in any way. It has not, as is required under the
14 most lenient standard, informed the district court of the basis
15 for its motion. It has not identified those portions of the
16 pleadings, depositions, answers to interrogatories, and admis-
17 sions on file which it believes demonstrate the absence of gen-
18 uine issues of material fact.

19 A brief review of the issues raised by the pleadings
20 will show the gross inadequacy of the government's motion for
21 summary judgment.

22 1. Adequacy of Notice. The United States alleges,
23 among other things, that "despite notice from EPA," Grace con-
24 tinued to operate the injection wells until on or about
25 September 28, 1984. (Complaint, ¶¶ 21, 24, and 27.) As indi-
cated in our initial brief, Grace was authorized by regulation
to continue to inject in the three wells in question. In order

1 to call into question that authority, it was incumbent upon the
2 EPA to give notice to Grace to file permit applications. A
3 valid notice is essential to the government's case.

4 Grace has never acknowledged that the letter of June
5 25, 1984, constituted a valid or adequate notice under the regu-
6 lations or law. Grace contends that the letter was defective
7 and insufficient. (See Grace's initial Brief in Support of Mo-
8 tion for Summary Judgment, p. 14, fn. 1.) This contention has
9 been framed in the pleadings. Grace specifically denied the al-
10 legations of paragraphs 21, 24, and 27 of the complaint which
11 allege that the EPA gave notice to Grace. (Defendant's Answer
12 and Jury Demand, pp. 2-3.)

13 The facts regarding the giving of the notice may very
14 well be undisputed. The language of the notice is before the
15 Court. Grace contends that the notice did not meet the require-
16 ments of the EPA regulations. It did not provide a statement of
17 the consequences of failure to make timely filing of the
18 applications.

19 40 CFR § 144.25(4)(b) contains the requirements for
20 notice of the "call-in". Among other things, the regulation
21 provides that the notice must contain "a statement of the
22 consequences . . . of failure to submit an application. . . ."
23 The letter of June 25, 1984, which is attached as Exhibit C to
24 our initial brief, did not contain a fair statement of the
25 consequences, i.e., the possibility of a fine of up to \$5,000

1 per day per well.

2 Compare the June 25, 1984, letter in this case with
3 other call-in notices given by the EPA under the UIC program.
4 Other letters give complete statements of the consequences.
5 Several examples are contained in the government's attachments
6 to its Answers to Defendant's First Interrogatories and Requests
7 for Production: notice to Amoco Production Co., attachment 5 to
8 answer to Interrogatory No. 7; notice to T. O. Kelly, attachment
9 6 to answer to Interrogatory No. 7; and form notice for Region
10 V, attachment 7 to answer to Interrogatory No. 7. Copies of
11 these documents have been attached to this brief as exhibits
12 "A", "B" and "C" for the Court's convenience.

13 The government, in its motion for summary judgment,
14 simply assumes that its notice is adequate. It has not, as re-
15 quired by the United States Supreme Court, identified the legal
16 issues which have been raised by the pleadings; has not borne
17 "the initial responsibility of informing the district court of
18 the basis for its motion," has not identified the contested is-
19 sues raised by the pleadings; and has not briefed the issues to
20
21
22
23
24
25

1 assist the district court in reaching a decision or to enable
2 Grace to respond.

3 2. Jurisdiction and Authority to Sue.

4 In paragraph 2 of the complaint, the United States al-
5 leges that this Court has jurisdiction of the subject matter of
6 this action pursuant to several statutes, including 42 U.S.C. §
7 300h-2(b)(1). The United States goes on to allege that it is
8 authorized to bring this action pursuant to 42 U.S.C. § 300h-
9 2(a)(2). (Complaint, p. 2.) In its answer, Grace alleges that
10 jurisdiction, if present, is conferred upon the district court,
11 but admits only that this action arises under 42 U.S.C. § 300h-
12 2(b)(1), the statute referred to in the complaint. Grace denies
13 in its answer that the United States is authorized to bring this
14 action pursuant to 42 U.S.C. § 300h-2(a)(2), as alleged in the
15 complaint. (See Answer and Jury Demand, p. 2.) Thus, both the
16 propriety of the action under 42 U.S.C. § 300h-2(b)(1) and the
17 authority of the United States under 42 U.S.C. § 300h-2(a)(2)
18 have been placed in issue by the pleadings. The government has
19 ignored these contested matters in its motion for summary judg-
20 ment.

21 The significance of the issues raised by the pleadings
22 becomes apparent with a reading of the statutes in question.
23 The full text of the statutes is attached as Exhibit "D" to this
24 brief. The Court will note that the United States alleges as
25 the basis for jurisdiction the provisions of subsection 2(b)(1).

1 That provision, however, empowers the administrator to bring a
2 civil action only when authorized by subsection (a). The appli-
3 cable portion of subsection (a) is part (2), which pertains to
4 periods during which a state does not have primary enforcement
5 responsibility for underground water sources. Subsection (a)(2)
6 expressly states that the administrator may commence a civil ac-
7 tion under subsection (b)(1).

8 Looking to subsection (b)(1), a substantial question
9 arises as to whether any penalty can be imposed. That subsec-
10 tion permits the imposition of the \$5,000 daily penalty only in
11 the case of an action brought against a person who is located in
12 a state which has primary enforcement responsibility. Likewise,
13 the penalty can be imposed under subsection (b)(1) only if the
14 person violates this requirement after the expiration of 60 days
15 after receiving certain additional notice under subsection
16 (a)(1), which notice was clearly not given in the present case.
17 Thus, the government has specifically alleged that it is pro-
18 ceeding under subsection (b)(1), as it is required to do by the
19 statute, but the provisions of subsection (b)(1) do not permit
20 the imposition of any penalty in this case. This issue, al-
21 though raised by the admissions and denials of the answer, is
22 not in any way mentioned or discussed in the government's motion
23 for summary judgment or its brief.

24 3. Extension of Time for Filing.

25 The complaint of the United States alleges that Grace

1 continued to inject "despite termination of its legal authority
2 to do so." (Complaint, ¶¶ 22, 25, and 28.) These allegations
3 are denied by Grace in its answer. (Answer and Jury Demand, pp.
4 2,3.) Thus, the issue of the termination of Grace's authority
5 to inject is clearly placed in issue by the pleadings.

6 This issue has two parts. The first pertains to the
7 three-day extension under 40 CFR 124.20(d) and is the subject of
8 Grace's initial motion for summary judgment. A second aspect of
9 this issue is presented, however, by the testimony and affidavit
10 of Matt Strever, a former Grace employee, that William Engle
11 granted an extension of time in which Grace could file its ap-
12 plication. (Strever depo., pp. 28-30, 43-53, 57-60, 67-70, 88-
13 90; Affidavit of Strever, Exhibit 3, pp. 28-30.) Engle, whose
14 deposition has been taken, denies that any extension was
15 granted, but nevertheless a genuine issue of material fact is
16 created by the deposition testimony and affidavit of Matt
17 Strever.

18 If an extension of time was granted, then Grace's au-
19 thority to inject continued or was reinstated. This is appar-
20 ently what happened with at least three other owners whose
21 applications were filed after the initial deadline had expired.
22 These parties were Murphy Oil; Superior Oil, and then later
23 Mobil Oil, who purchased the well from Superior; and Amoco. See
24 answer to Interrogatory 42 and attachment 5 to answer to Inter-
25 rogatory 7, Answers to Defendant's First Interrogatories.

1 The government has the burden of proving that Grace's
2 authority terminated and was not continued or reinstated. A
3 genuine issue of material fact exists as to this question.
4 Thus, summary judgment is clearly inappropriate.

5 4. Estoppel.

6 Grace has raised the issue of estoppel as an affirma-
7 tive defense in its answer (Answer and Jury Demand, p. 3.)
8 Again, genuine issues of material fact are raised by the testi-
9 mony of Matt Strever on the issue of estoppel. This is another
10 issue, however, which is completely ignored by the United States
11 in both its motion for summary judgment and the supporting
12 brief.

13 Matt Strever has described a number of conversations
14 which took place with Bill Engle. (Strever depo., pp. 28-30,
15 43-53, 57-60, 67-70, 88-90; affidavit of Strever, exhibit 3, pp.
16 28-30.) Although Engle denies some of these conversations, is-
17 sues of fact are clearly presented. The government has not met
18 its initial responsibility and obligation to inform the district
19 court of the basis for its entitlement to summary judgment in
20 light of the affirmative defense of estoppel.

21 5. Selective Enforcement.

22 A question exists as to whether the issue of selective
23 enforcement is raised by the denials contained in Grace's An-
24 swer. Selective enforcement is a question of constitutional due
25

1 process. Perhaps it should be raised affirmatively in the An-
2 swer.

3 Grace believes that an issue of selective enforcement
4 may ultimately be raised in this case, but discovery is not yet
5 sufficiently complete on this issue. It was the hope of Grace
6 that the case might be resolved by its Motion for Summary Judg-
7 ment, or otherwise, before Grace was required to undertake what
8 promises to be extensive and costly discovery. Grace has now
9 made arrangements for the additional discovery by serving no-
10 tices of the taking of depositions of a number of EPA employees
11 involved in processing Grace's application.

12 There is already evidence in the record that others
13 similarly situated to Grace were not subjected to actions for
14 civil penalties. Companies such as Murphy Oil, Ajax Petroleum,
15 Superior Oil Company, Mobil Oil Company, and Amoco Oil Company
16 all failed to meet the deadline and did not comply with the ap-
17 parent, but unwritten, EPA requirement that a written request
18 for an extension be made prior to the termination of authority.
19 We believe a defense of selective enforcement may well be in or-
20 der, but the record at this time may not present a genuine issue
21 of material fact. We therefore request, on behalf of Grace,
22 that additional time be given to complete discovery on this is-
23 sue, after which a motion to amend Grace's answer will be made
24 if warranted.

1

2

2

A

1 dence. The government's motion, under these circumstances, is
2 clearly without merit and should be denied.

3 Dated this 22 day of June, 1987.

4 CROWLEY, HAUGHEY, HANSON,
5 TOOLE & DIETRICH

6 By

Jack Ramirez
Jack Ramirez

7 By

James P. Sites
James P. Sites

8 P. O. Box 2529
9 Billings, Montana 59103
10 Attorneys for Defendant

11 Defendant requests oral argument on its motion for
12 summary judgment and on the plaintiff's cross-motion for summary
13 judgment.

14 CERTIFICATE OF SERVICE

15 I hereby certify that on the 22 day of June,
16 1987, I mailed a copy of the foregoing to the following counsel
17 of record:

18 F. Henry Habicht, II
19 Assistant Attorney General
20 Land & Natural Resources Division
21 United States Department of Justice
22 Washington, D.C. 20530

23 Brian G. Donohue
24 Attorney, Environmental Enforcement
25 Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

1 Bryan H. Dunbar
2 United States Attorney
3 George F. Darragh, Jr.
4 Assistant United States Attorney
5 P. O. Box 3446
6 Great Falls, Montana 59403

James P. Darragh, Jr.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

JUL 30 1984

Amoco Production Co.
10850 Traverse Highway
Traverse City, MI 14968

Dear Sir:

The U. S. Environmental Protection Agency (EPA) Region III began implementing the Underground Injection Control (UIC) Program for the Commonwealth of Pennsylvania on June 25, 1984. All injection facilities in the Commonwealth of Pennsylvania must now comply with the requirements of this new Federal program, which is separate and in addition to any State or local requirements. The UIC Program regulations at 40 CFR Part 144, Section 144.11, state that "any underground injection, except as authorized by permit or rule issued under the UIC Program, is prohibited [emphasis supplied]." Under the UIC Program, the rule is a general regulation that specifies the conditions and standards under which certain types of injection operations may be conducted by the regulated community. A UIC permit, on the other hand, provides individual authorization to operate a specific facility under the conditions and limitations specified in the permit.

Our records indicate that you operate and/or own an existing injection facility used to dispose of fluids brought to the surface in conjunction with oil and gas production or treatment, which has been designated as a Class II D facility under the UIC Program. By this letter, I am notifying you that you must submit a permit application to EPA within 60 days of receipt of this letter. I have enclosed a permit application and other relevant forms for your use. You must fill out the UIC Permit application (Form 7520-6) and submit the information required in Attachments A, B, C, E, G, H, I, J, K, L, M, O, P, Q, and R. The instructions for these attachments are found in the permit application. I strongly urge you to request a pre-application conference with EPA at your earliest convenience. This is a highly informative, very helpful forum for us to explain the UIC requirements. As a rule, pre-application conferences are held in our offices in Philadelphia.

The UIC Program for the Commonwealth of Pennsylvania encompasses all injection wells associated with the production and storage of oil and gas (Class II), including produced fluid disposal wells (Class II D), hydrocarbon storage wells (Class II H), and enhanced recovery injection wells (Class II R), and others. Existing Class II D wells (wells which began injection before June 25, 1984) are authorized to operate under rule for up to five years after the effective date of the program or until such time EPA issues notice that a permit is required. In Pennsylvania, these wells must:

CONCURRENCES							
SYMBOL							
SURNAME							
DATE							
							EXHIBIT <u>A</u>

- Comply with the appropriate operating, monitoring, reporting, and abandonment requirements of rule authorization described in Section 144.28 no later than one year after the effective date, in this case June 25, 1984, of the UIC Program (Section 144.21(c)). Mechanical integrity testing shall be performed at least once every five years during the life of the injection well and as a part of the permitting process (Section 146.23).
- Apply for a permit upon written notice given herewith from EPA and within the timeframe specified by EPA. Section 144.25 of the UIC Program regulation provides EPA the authority to require that Class I, Class II (except enhanced recovery and hydrocarbon storage), or Class III injection wells authorized by rule apply for a permit in accordance with a schedule established pursuant to Section 144.31(c). EPA Region III has placed Class II D (produced fluid disposal) wells as top priority on EPA Region III's permit schedule for Pennsylvania in order to provide the maximum protection to underground sources of drinking water (USDW's) afforded by the site-specific analyses, limitations, and conditions of the permitting process. EPA Region III intends to permit all Class II D wells in Pennsylvania within one year of the June 25, 1984 effective date.
- Comply with all the operating monitoring, reporting, and abandonment requirements in the permit conditions in the schedule established by the permit, once issued by EPA Region III.

You may continue to operate your injection facilities under authorization by rule as long as your injection facilities are in compliance with the UIC Program regulations for rule-authorized Class II D wells and a permit application is pending. Once a permit is issued, you must comply with the limitations and conditions specified in the permit. If you fail to submit a permit application within the timeframe specified by this notice, you will lose rule authorization to operate an injection facility. As a result, underground injection would be prohibited at your facility as specified by the UIC Program regulations at 40 CFR, Part 144, Section 144.11. EPA's denial of your permit application would also result in loss of rule authorization. Enforcement action may be taken by EPA should you fail to comply with the requirements of the UIC Program. The potential penalties are outlined in Section 1423 of the Safe Drinking Water Act. Any person who violates any UIC requirement shall be subject to a civil penalty of not more than \$5,000 for each day of such violation. If the violation is willfully committed, it is classified as a criminal violation and may result in a fine of not more than \$10,000 for each day of such violation.

CONCURRENCES							
SYMBOL							
SURNAME							
DATE							

3

My staff and I would be pleased to provide you with assistance and to answer any questions that may arise. Please feel free to contact Charlie Kleeman at 215/597-2537 or George Hoessel at 215/597-9031.

Sincerely,

Jon Capacasa, Acting Chief
Water Supply Branch (3WM40)

Enclosures

bcc: John Cooper

CONCURRENCES						
SYMBOL	3WM43	3WM43	BRC00	3WM43		
SURNAME	MACKNIGHT	KLEEMAN	COOPER	CAPACASA		
DATE	SSM 7/13	7/16/84	7/21/84	7/15/84		

EPA Form 1320-1 (12-70)

JUL - 1 1986

1 1986

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Mr. T. O. Kelly, President
Tokel, Inc.
P. O. Box 595
Waynesboro, Mississippi 39367

Dear Mr. Kelly:

Recently the EPA acted to require operators of Wilcox disposal wells in the Heidelberg field, Jasper County, Mississippi to cease injection and plug and abandon such wells. EPA determined the Wilcox in that field to be an Underground Source of Drinking Water (USDW) which was being endangered by ongoing brine disposal.

The Agency now intends to expand its investigations and actions to surrounding fields where Wilcox injections are taking place. The Wilcox is very likely to be a USDW in these areas as well.

Based on our review of your recent injection well inventory submission the following well operated by you injects into the Wilcox:

<u>Well</u>	<u>Field</u>	<u>County</u>
#1 T. F. Hodge	Cypress Creek Field	Wayne

EPA is authorized by 40 C.F.R. §144.25 to require the operator of any well authorized by rule to apply for and obtain an EPA Underground Injection Control (UIC) permit. Accordingly, a complete application is due from you for the listed well within ninety (90) days of receipt of this letter. Enclosed is an application form, completion guidance and supporting materials. In lieu of a permit application you may propose to cease injection through the well by the ninety day deadline and plug and abandon the well according to a reasonable schedule. Please notify us of your intentions within thirty (30) days.

Injection activities are no longer authorized by rule upon the effective date of a permit or permit denial or upon your failure to submit an application by the deadline. Unauthorized injection is a violation of EPA's UIC regulations and is subject to enforcement action for the initiation of civil proceedings which can result in penalties of up to \$5,000 per day of the violation; if the violation is willful, a criminal fine of up to \$10,000 per day may be imposed in lieu of the civil penalty.

If you have any questions concerning the information requirements, please contact Mr. Michael R. Hollinger, Chief, UIC Permits Unit at (404) 347-3866.

Sincerely yours,

/s/ Jack E. Ravan
Regional Administrator

Jack E. Ravan
Regional Administrator

Enclosure

cc: MS Oil and Gas Board

4WM-GP:THOMAS:WC:3866:6-27-86:Disk 18



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

230 SOUTH DEARBORN ST.

CHICAGO, ILLINOIS 60604

5WD-13 TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

[Adr]

Dear [Name]:

The Underground Injection Control (UIC) program was established under the authority of Part C of the Safe Drinking Water Act (SDWA) (42 U.S.C. §300f et seq), with the objective of protecting the Nation's underground sources of drinking water (USDW). The program involves the regulation of all underground injection of liquid wastes, produced brines and solution mining liquids. The U.S. Environmental Protection Agency (EPA) regulations for the UIC program became effective June 25, 1984.

Pursuant to 40 CFR (Code of Federal Regulations) Section 144.25, you are hereby required to submit a complete permit application for the salt water disposal (Class II D) well(s) [1]. These permit applications are being called in on a schedule established pursuant to 40 CFR §144.31 (c), so that all wells will be permitted within five (5) years from the effective date of the Federal UIC program. Your completed permit application on each Class II salt water disposal well mentioned above must be submitted within thirty (30) days from the receipt of this letter.

Under the Regulations the injection activities are no longer authorized by rule upon the effective date of a permit or permit denial, or upon failure by the owner or operator to submit an application in a timely manner as specified in this request.

EXHIBIT C

You should be aware that the SDWA provides for a civil penalty of \$5,000 per day, or a criminal penalty of \$10,000 per day, should you fail to submit a complete permit application by the required date. Also, continued operation without submittal of a complete permit application by the required date is a violation of 40 CFR §144.11 subject to the same penalties and possible civil action.

Enclosed is a sample permit application, a blank permit application and a copy of the UIC regulations. A permit workshop has been set up for
[2] at
[3]

Please contact Michael Gentleman of my staff at (312) 886-1507 if you should have any further questions concerning these permit applications.

Sincerely yours,

Charles H. Sutfin
Director, Water Division

Enclosures

bcc: Sutfin
Bryson
Harrison
Attermeyer

42 USCS § 300h-1

PUBLIC HEALTH SERVICES

(b) State applications; notice to Administrator of compliance with revised or added requirements; approval or disapproval by Administrator; duration of State primary enforcement responsibility; public hearing. (1)(A) Each State listed under subsection (a) shall within 270 days after the date of promulgation of any regulation under section 1421 [42 USCS § 300h] (or, if later, within 270 days after such State is first listed under subsection (a)) submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State—

(i) has adopted after reasonable notice and public hearings, and will implement, an underground injection control program which meets the requirements of regulations in effect under section 1421 [42 USCS § 300h]; and

(ii) will keep such records and make such reports with respect to its activities under its underground injection control program as the Administrator may require by regulation.

The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days.

(B) Within 270 days of any amendment of a regulation under section 1421 [42 USCS § 300h] revising or adding any requirement respecting State underground injection control programs, each State listed under subsection (a) shall submit (in such form and manner as the Administrator may require) a notice to the Administrator containing a showing satisfactory to him that the State underground injection control program meets the revised or added requirement.

(2) Within ninety days after the State's application under paragraph (1)(A) or notice under paragraph (1)(B) and after reasonable opportunity for presentation of views, the Administrator shall by rule either approve, disapprove, or approve in part and disapprove in part, the State's underground injection control program.

(3) If the Administrator approves the State's program under paragraph (2), the State shall have primary enforcement responsibility for underground water sources until such time as the Administrator determines, by rule, that such State no longer meets the requirements of clause (i) or (ii) of paragraph (1)(A) of this subsection.

(4) Before promulgating any rule under paragraph (2) or (3) of this subsection, the Administrator shall provide opportunity for public hearing respecting such rule.

(c) Program by Administrator for State without primary enforcement responsibility; restrictions. If the Administrator disapproves a State's program (or part thereof) under subsection (b)(2), if the Administrator determines under subsection (b)(3) that a State no longer meets the requirements of clause (i) or (ii) of subsection (b)(1)(A), or if a State fails to submit an application or notice before the date of expiration of the

PUBLIC WATER SYSTEMS

42 USCS § 300h-2

period specified in subsection (b)(1), the Administrator shall by regulation within 90 days after the date of such disapproval, determination, or expiration (as the case may be) prescribe (and may from time to time by regulation revise) a program applicable to such State meeting the requirements of section 1421(b) [42 USCS § 300h(b)]. Such program may not include requirements which interfere with or impede—

(1) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production, or

(2) any underground injection for the secondary or tertiary recovery of oil or natural gas.

unless such requirements are essential to assure that underground sources of drinking water will not be endangered by such injection. Such program shall apply in such State to the extent that a program adopted by such State which the Administrator determines meets such requirements is not in effect. Before promulgating any regulation under this section, the Administrator shall provide opportunity for public hearing respecting such regulation.

(d) "Applicable underground injection control program" defined. For purposes of this title [42 USCS §§ 300f et seq.], the term "applicable underground injection control program" with respect to a State means the program (or most recent amendment thereof) (1) which has been adopted by the State and which has been approved under subsection (b), or (2) which has been prescribed by the Administrator under subsection (c). (July 1, 1944, c. 373, Title XIV, Part C, § 1422, as added Dec. 16, 1974, P. L. 93-523, § 2(a), 88 Stat. 1676; Nov. 16, 1977, P. L. 95-190, § 6(a), 91 Stat. 1396.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Amendments:

1977, Act Nov. 16, 1977, in subsec. (b)(1)(A), inserted "The Administrator may, for good cause, extend the date for submission of an application by any State under this subparagraph for a period not to exceed an additional 270 days."

§ 300h-2. Failure of State to assure enforcement of program

(a) Notice to State and violator; public notice; civil action, conditions. (1) Whenever the Administrator finds during a period during which a State has primary enforcement responsibility for underground water sources (within the meaning of section 1422(b)(3) [42 USCS § 300h-1(b)(3)]) that any person who is subject to a requirement of an applicable underground injection control program in such State is violating such requirement, he shall so notify the State and the person violating such requirement. If the Administrator finds such failure to comply extends beyond the thirtieth day after the date of such notice, he shall give public notice of such finding and request the State to report within 15

days after the date of such public notice as to the steps being taken to bring such person into compliance with such requirement (including reasons for anticipated steps to be taken to bring such person into compliance with such requirement and for any failure to take steps to bring such person into compliance with such requirement). If—

(A) such failure to comply extends beyond the sixtieth day after the date of the notice given pursuant to the first sentence of this paragraph, and

(B)(i) the State fails to submit the report requested by the Administrator within the time period prescribed by the preceding sentence, or

(ii) the State submits such report within such period but the Administrator, after considering the report, determines that by failing to take necessary steps to bring such person into compliance by such sixtieth day the State abused its discretion in carrying out primary enforcement responsibility for underground water sources,

the Administrator may commence a civil action under subsection (b)(1).

(2) Whenever the Administrator finds during a period during which a State does not have primary enforcement responsibility for underground water sources that any person subject to any requirement of any applicable underground injection control program in such State is violating such requirement, he may commence a civil action under subsection (b)(1).

(b) **Judicial determinations in appropriate Federal district courts; civil penalties; separate violations; penalties for willful violations.** (1) When authorized by subsection (a), the Administrator may bring a civil action under this paragraph in the appropriate United States district court to require compliance with any requirement of an applicable underground injection control program. The court may enter such judgment as protection of public health may require, including, in the case of an action brought against a person who violates an applicable requirement of an underground injection control program and who is located in a State which has primary enforcement responsibility for underground water sources, the imposition of a civil penalty of not to exceed \$5,000 for each day such person violates such requirement after the expiration of 60 days after receiving notice under subsection (a)(1).

(2) Any person who violates any requirement of an applicable underground injection control program to which he is subject during any period for which the State does not have primary enforcement responsibility for underground water sources (A) shall be subject to a civil penalty of not more than \$5,000 for each day of such violation, or (B) if such violation is willful, such person may, in lieu of the civil penalty authorized by clause (B), be fined not more than \$10,000 for each day of such violation.

(c) **State authority to adopt or enforce laws or regulations respecting**

underground injection unaffected. Nothing in this title [42 USCS §§ 300f et seq.] shall diminish any authority of a State or political subdivision to adopt or enforce any law or regulation respecting underground injection but no such law or regulation shall relieve any person of any requirement otherwise applicable under this title [42 USCS §§ 300f et seq.].

(July 1, 1944, c. 373, Title XIV, Part C, § 1423, as added Dec. 16, 1974, P. L. 93-523, § 2(a), 88 Stat. 1677.)

§ 300h-3. Interim regulation of underground injections

(a) **Necessity for well operation permit; designation of one aquifer areas.**

(1) Any person may petition the Administrator to have an area of a State (or States) designated as an area in which no new underground injection well may be operated during the period beginning on the date of the designation and ending on the date of which the applicable underground injection control program covering such area takes effect unless a permit for the operation of such well has been issued by the Administrator under subsection (b). The Administrator may so designate an area within a State if he finds that the area has one aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health.

(2) Upon receipt of a petition under paragraph (1) of this subsection, the Administrator shall publish it in the Federal Register and shall provide an opportunity to interested persons to submit written data, views, or arguments thereon. Not later than the 30th day following the date of the publication of a petition under this paragraph in the Federal Register, the Administrator shall either make the designation for which the petition is submitted or deny the petition.

(b) **Well operation permits; publications in Federal Register; notice and hearing; issuance or denial; conditions for issuance.** (1) During the period beginning on the date an area is designated under subsection (a) and ending on the date the applicable underground injection control program covering such area takes effect, no new underground injection well may be operated in such area unless the Administrator has issued a permit for such operation.

(2) Any person may petition the Administrator for the issuance of a permit for the operation of such a well in such an area. A petition submitted under this paragraph shall be submitted in such manner and contain such information as the Administrator may require by regulation. Upon receipt of such a petition, the Administrator shall publish it in the Federal Register. The Administrator shall give notice of any proceeding on a petition and shall provide opportunity for agency hearing. The Administrator shall act upon such petition on the record of any hearing held pursuant to the preceding sentence respecting such petition. Within 120 days of the publication in the Federal Register of a

(Donohue, B

6/15/87

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.)
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)
21)
22)
23)
24)
25)

DEFENDANT'S SECOND
REQUEST FOR PRODUCTION
OF DOCUMENTS

17 Defendant Grace Petroleum Corporation requests the
18 United States of America, pursuant to Rules 30(b)(5) and 34 of
19 the Federal Rules of Civil Procedure, to produce and permit de-
20 fendant to inspect and to copy each of the documents described
21 below.

22 The documents are to be produced at the time and place
23 of the taking of the depositions described in the notices served
24 on June 15, 1987. The requests for production must also be an-
25

44-5-H-2383

44	DEPARTMENT OF JUSTICE	R
	JUN 19 1987	E
		C
		O
		R
		D

RECEIVED

1 swered in writing within the time allowed. The requests shall
2 also be deemed continuing in nature so as to require supplemen-
3 tal responses to be filed in the event that additional informa-
4 tion is obtained after the date the initial responses are served
5 or after the date of the depositions referred to in the notices
6 served on June 15, 1987.

7 1. All notes, memoranda, telephone logs, telephone
8 call slips, correspondence, and any other documents which in any
9 way pertain to the contacts, by the individuals designated in
10 the notices of depositions served on June 15, 1986, regarding
11 the selection of the wells in Montana in the initial "call-in";
12 the processing of the applications for the Grace wells involved
13 in the initial call-in in Montana; the extensions of time given
14 to Murphy Oil, Superior Oil, and Mobil Oil; and any discussions,
15 recommendations, or advice regarding the decision to pursue or
16 not pursue enforcement of penalties or injunctions against Ajax
17 Oil, Mobil Oil, Superior Oil, and Grace Petroleum for wells in
18 Montana.

19 RESPONSE:

20 2. Notes, memoranda, telephone logs, telephone call
21 slips, correspondence, and any other documents which were pre-
22 pared by any of the participants regarding the meetings, discus-
23 sion, recommendations, or advice of the "ad hoc working group"
24 referred to in answer to interrogatory No. 8 of the plaintiff's
25 answers to defendant's first interrogatories.

RESPONSE:

3. The letter from the Bureau of Indian Affairs re-
ferred to in answer to interrogatory No. 8 of the plaintiff's
answers to defendant's first interrogatories.

RESPONSE:

1
2 4. All records, notes, memoranda, telephone logs,
3 telephone call slips, correspondence, and any other documents
4 which in any way pertain to the conversations and site visits
5 with the Bureau of Land Management referred to in answer to in-
6 terrogatory No. 8 of the plaintiff's answers to defendant's
7 first interrogatories.

8 RESPONSE:
9

10 5. Well completion records from the Bureau of Mines
11 and Geology referred to in answer to interrogatory No. 8 of the
12 plaintiff's answers to defendant's first interrogatories.

13 RESPONSE:
14

15 6. The administrative program goals referred to in
16 answers to interrogatory No. 10 of the plaintiff's answers to
17 defendant's first interrogatories.

18 RESPONSE:
19

20 7. All notes, memoranda, telephone logs, telephone
21 call slips, correspondence, and any other documents, including
22 the "background files" or which make up the background files,
23 for the preparation and writing of the UIC program regulations.

24 RESPONSE:
25

26 8. The standard form notices, and samples of the no-
27 tices sent in each region, for the "call-in" of Class II under-
28 ground injection wells.

29 RESPONSE:
30

1
2 9. All notes, memoranda, telephone logs, telephone
3 call slips, correspondence, and any other documents which in any
4 way pertain to the extension of time given by Region III to
5 Damson Oil Corporation and Amoco Production Company regarding
PA52D561BSOM, including any such records regarding any deci-
sions, discussions, recommendations, or advice to pursue or not
pursue enforcement of penalties or injunctions against Damson
Oil Corporation and Amoco Production Company for the said well.

6 RESPONSE:

7
8
9 10. Original call-in letters sent to Superior Oil and
Mobil Oil regarding Tribal Bear #1.

10 RESPONSE:

11
12
13 Dated this 15th day of June, 1987.

14 CROWLEY, HAUGHEY, HANSON,
15 TOOLE & DIETRICH

16 By Jack Ramirez
17 P. O. Box 2529
18 Billings, Montana 59103
Attorneys for Defendant

19 CERTIFICATE OF SERVICE

20 I hereby certify that on the 16th day of June,
21 1987, I mailed a copy of the foregoing to the following counsel
22 of record:

23 F. Henry Habicht, II
24 Assistant Attorney General
Land & Natural Resources Division
25 United States Department of Justice
Washington, D.C. 20530

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Brian G. Donohue
Attorney, Environmental Enforcement
Sections
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403

A handwritten signature in cursive script, reading "Jack Ramirez", is written over a horizontal line.

Donohue, B

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES
L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P.O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

—
OF COUNSEL
CALE CROWLEY
JAMES M. HAUGHEY

June 15, 1987

LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LAM DIN, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HABEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MARY S. YERGER
JON T. DYRE
DENNIS NETTIKSIMMONS
MICHAEL C. WALLER
SHARON NOVAK
ERIC K. ANDERSON
BRUCE A. FREDRICKSON
JEFFREY W. HEDGER
JOHN E. BOHYER

Mr. Brian G. Donohue
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Re: United States vs. Grace Petroleum

Dear Brian:

This letter will confirm my oral request to you in Washington, D.C. to arrange for the taking of the depositions of the government's witnesses and employees.

I am enclosing three notices for the taking of depositions of those who were involved in the permitting process with Grace. I have scheduled the depositions in Helena, Denver, and Washington, D.C., on different days. I recognize there may be some dates and places which may need changing, and I stand ready to cooperate in every way possible. I will be glad to agree to adjustments in the scheduling to minimize the inconvenience to you and your witnesses. It is my desire, however, to depose the witnesses where the records pertaining to their involvement are located and to take the depositions in the near future.

In addition, it is my desire to inspect certain records of the EPA prior to the taking of the depositions. These records would include those which are the subject of the enclosed second request for production, as well as those documents referred to in response to requests No. 2, 5, 15 (relating to region VIII), and 17, of defendant's first requests for production to the government. In this regard, I would like to commence the taking of the depositions in Denver at 1:00 P.M. on Monday, July 20. I would like to review the EPA records beginning at approximately 8:00 A.M. of the same day. The depositions would then continue in

10-5-H-2383

DEPARTMENT OF JUSTICE		RECORDED
41	JUN 19 1987	
LANDS DIVISION POLLUTION ENFORCEMENT		

Mr. Brian G. Donohue
June 15, 1987
Page 2

Denver until completed, at which time we would travel to Helena, Montana, to take the deposition of the witnesses there. Depositions would commence the following Monday, July 27, 1987, in Washington, D.C.

Grace, of course, had previously requested that discovery be suspended until the motion for summary judgment was determined. The United States acquiesced in that request. Under the circumstances, however, and in view of the comments in Judge Hatfield's order of December 10, 1986, it would appear to be prudent to proceed now with as much discovery as possible to avoid a crunch when the court finally rules on the motions for summary judgment.

Please let me know as soon as possible how many of the depositions can be taken and when. If not all of the witnesses in each city are available on the days indicated, I would prefer to do as much as possible as soon as possible, and then make a second try later to pick up those we have missed.

Your prompt attention to these arrangements is very much appreciated.

On another subject, I wish to discuss briefly the duration of the offer of settlement which we made in Washington on the 10th of June. As we left, I indicated to you that the offer obviously could not extend to the time of Judge Hatfield's decisions on the motion for summary judgment. On reflection, and after discussing the matter with my client, I believe it is necessary to place some sort of a deadline on the offer we made. I have been instructed, therefore, to inform you that our last offer will remain open for a period of ten days from the date of this letter or until the moment preceding the announcement of Judge Hatfield's decision on the motions for summary judgment, whichever occurs first. If for any reason you find that the 10-day period is absolutely inadequate for the consideration of the offer, please let me know and I will see if there is any possibility of extending it.

Thank you for your cooperation.

Very truly yours,


Jack Ramirez

JR:lm

Enc.

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>DEFENDANT'S SECOND</u>
	)	<u>REQUEST FOR PRODUCTION</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>OF DOCUMENTS</u>
)	
16 Defendant.)	

17 Defendant Grace Petroleum Corporation requests the
18 United States of America, pursuant to Rules 30(b)(5) and 34 of
19 the Federal Rules of Civil Procedure, to produce and permit de-
20 fendant to inspect and to copy each of the documents described
21 below.

22 The documents are to be produced at the time and place
23 of the taking of the depositions described in the notices served
24 on June 15, 1987. The requests for production must also be an-
25

1 swered in writing within the time allowed. The requests shall
2 also be deemed continuing in nature so as to require supplemen-
3 tal responses to be filed in the event that additional informa-
4 tion is obtained after the date the initial responses are served
5 or after the date of the depositions referred to in the notices
6 served on June 15, 1987.

7 1. All notes, memoranda, telephone logs, telephone
8 call slips, correspondence, and any other documents which in any
9 way pertain to the contacts, by the individuals designated in
10 the notices of depositions served on June 15, 1986, regarding
11 the selection of the wells in Montana in the initial "call-in";
12 the processing of the applications for the Grace wells involved
13 in the initial call-in in Montana; the extensions of time given
14 to Murphy Oil, Superior Oil, and Mobil Oil; and any discussions,
15 recommendations, or advice regarding the decision to pursue or
16 not pursue enforcement of penalties or injunctions against Ajax
17 Oil, Mobil Oil, Superior Oil, and Grace Petroleum for wells in
18 Montana.

13
14 RESPONSE:

15
16 2. Notes, memoranda, telephone logs, telephone call
17 slips, correspondence, and any other documents which were pre-
18 pared by any of the participants regarding the meetings, discus-
19 sion, recommendations, or advice of the "ad hoc working group"
20 referred to in answer to interrogatory No. 8 of the plaintiff's
21 answers to defendant's first interrogatories.

20
21 RESPONSE:

22 3. The letter from the Bureau of Indian Affairs re-
23ferred to in answer to interrogatory No. 8 of the plaintiff's
24 answers to defendant's first interrogatories.

24
25 RESPONSE:

1
2 4. All records, notes, memoranda, telephone logs,
3 telephone call slips, correspondence, and any other documents
4 which in any way pertain to the conversations and site visits
5 with the Bureau of Land Management referred to in answer to in-
6 terrogatory No. 8 of the plaintiff's answers to defendant's
7 first interrogatories.

8 RESPONSE:
9

10 5. Well completion records from the Bureau of Mines
11 and Geology referred to in answer to interrogatory No. 8 of the
12 plaintiff's answers to defendant's first interrogatories.

13 RESPONSE:
14

15 6. The administrative program goals referred to in
16 answers to interrogatory No. 10 of the plaintiff's answers to
17 defendant's first interrogatories.

18 RESPONSE:
19

20 7. All notes, memoranda, telephone logs, telephone
21 call slips, correspondence, and any other documents, including
22 the "background files" or which make up the background files,
23 for the preparation and writing of the UIC program regulations.

24 RESPONSE:
25

26 8. The standard form notices, and samples of the no-
27 tices sent in each region, for the "call-in" of Class II under-
28 ground injection wells.

29 RESPONSE:
30

1
2 9. All notes, memoranda, telephone logs, telephone
3 call slips, correspondence, and any other documents which in any
4 way pertain to the extension of time given by Region III to
5 Damson Oil Corporation and Amoco Production Company regarding
PA52D561BSOM, including any such records regarding any deci-
sions, discussions, recommendations, or advice to pursue or not
pursue enforcement of penalties or injunctions against Damson
Oil Corporation and Amoco Production Company for the said well.

6 RESPONSE:

7
8
9 10. Original call-in letters sent to Superior Oil and
Mobil Oil regarding Tribal Bear #1.

10 RESPONSE:

11
12
13 Dated this 15th day of June, 1987.

14 CROWLEY, HAUGHEY, HANSON,
15 TOOLE & DIETRICH

16 By Jack Ramsey
17 P. O. Box 2529
18 Billings, Montana 59103
Attorneys for Defendant

19 CERTIFICATE OF SERVICE

20 I hereby certify that on the 16th day of June,
21 1987, I mailed a copy of the foregoing to the following counsel
22 of record:

23 F. Henry Habicht, II
24 Assistant Attorney General
Land & Natural Resources Division
25 United States Department of Justice
Washington, D.C. 20530

1
2 Brian G. Donohue
3 Attorney, Environmental Enforcement
4 Section
5 Land & Natural Resources Division
6 United States Department of Justice
7 Washington, D.C. 20530

8 Bryan H. Dunbar
9 United States Attorney
10 George F. Darragh, Jr.
11 Assistant United States Attorney
12 P. O. Box 3446
13 Great Falls, Montana 59403

14
15
16
17
18
19
20
21
22
23
24
25


1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441

7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>NOTICE TO TAKE DEPOSITIONS</u>
)	
15 GRACE PETROLEUM CORPORATION,)	
)	
16 Defendant.)	

17 TO: BELOW-LISTED COUNSEL:

18 PLEASE TAKE NOTICE that beginning at 1:00 p.m. on the
19 20th day of July, 1987, at the office of the Environmental
20 Protection Agency, 1860 Lincoln St., Denver, Colorado, the
21 Defendant in the above-entitled action, GRACE PETROLEUM
22 CORPORATION, will take the depositions of the persons listed
23 below upon oral examination, pursuant to the Federal Rules of
24 Civil Procedure, before a Notary Public or some other officer
25 authorized by law to administer oaths. The oral examinations

1 will continue from day to day until completed (commencing at
2 8:00 a.m. on July 21, 1987).

3 You are invited to attend and cross-examine.

- 4 1. John G. Wells
- 5 2. Pattrick Crotty
- 6 3. Laura Clemmens
- 7 4. Richard R. Long
- 8 5. Max H. Dodson
- 9 6. Derrick Hobson
- 10 7. Gustav Stolz, Jr.
- 11 8. Paul S. Osborne
- 12 9. Michael Strieby
- 13 10. Michael Liuzzi
- 14 11. T. A. Minton
- 15 12. All individuals who are or were employed by the
16 United States of America and who are presently
17 residing in the Denver area who had any contact with
Grace Petroleum Corporation regarding the UIC program
from June 15, 1984 through January 2, 1986.
- 18 13. All individuals who are or were employed by the
19 United States of America and who are presently
20 residing in the Denver area who were in any way involved
21 in the decision regarding the initial "call-in"
22 in Montana; were involved in processing the permit
application of Grace; reviewed the file to determine
if suit should be filed against Grace; or were con-
sulted in any way or participated in the decision
to sue Grace.
- 23 14. All individuals who are or were employed by the
24 United States of America and who are presently
25 residing in the Denver area who were employed in
the Denver office of the Environmental Protection
Agency in July and early August of 1984 and who
could have talked to Matt Strever or responded

1 to questions concerning the UIC program

- 2 15. All individuals who are or were employed by the
3 United States of America and who are presently
4 residing in the Denver area who you intend to call
5 as a witness.

6 DATED this 16th day of June, 1987.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By Jack Ramirez
10 Jack Ramirez
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13 Plaintiff,)
14 vs.) NOTICE TO TAKE DEPOSITIONS
15 GRACE PETROLEUM CORPORATION,)
16 Defendant.)

17 TO: BELOW-LISTED COUNSEL:

18 PLEASE TAKE NOTICE that beginning at 1:00 p.m. on the
19 22nd day of July, 1987, at the office of the Environmental
20 Protection Agency, 301 S. Park, Helena, Montana, the Defendant in
21 the above-entitled action, GRACE PETROLEUM CORPORATION, will take
22 the depositions of the persons listed below upon oral examina-
23 tion, pursuant to the Federal Rules of Civil Procedure, before
24 a Notary Public or some other officer authorized by law to
25 administer oaths. The oral examinations will continue from day

to day until completed (commencing at 8:00 a.m. on July 23, 1987).

You are invited to attend and cross-examine.

1. John F. Wardell
2. Richard Montgomery
3. James Boyter
4. Fran Ashworth
5. Debbie Clevenger
6. Doris LaPier
7. Bob Fox
8. Dean R. Chaussee
9. William E. Engle (continuation of deposition of June 2, 1986).
10. All individuals who are or were employed by the United States of America and who are presently residing in Montana who had any contact with Grace Petroleum Corporation regarding the UIC program from June 15, 1984 through January 2, 1986.
11. All individuals who are or were employed by the United States of America and who are presently residing in Montana who were in any way involved in the decision regarding the initial "call-in" in Montana; were involved in processing the permit application of Grace; reviewed the file to determine if suit should be filed against Grace; or were consulted in any way or participated in the decision to sue Grace.
12. All individuals who are or were employed by the United States of America and who are presently residing in Montana who you intend to call as a witness.
13. All individuals who are or were employed by the United States of America and who are presently residing in Montana who were employed in the Helena office of the Environmental Protection Agency in July and early August of 1984 and who could have

1 talked to Matt Strever or responded to questions
2 concerning the UIC program.

3 DATED this 15th day of June, 1987.

4 CROWLEY, HAUGHEY, HANSON,
5 TOOLE & DIETRICH

6 By Jack Ramirez by J.P. Siles
7 Jack Ramirez

1 Jack Ramirez
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) NOTICE TO TAKE DEPOSITIONS
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 TO: BELOW-LISTED COUNSEL:

22 PLEASE TAKE NOTICE that beginning at 9:00 a.m. on the
23 27th day of July, 1987, at the office of the Environmental
24 Protection Agency, 401 M Street SW, Washington, D.C., the
25 Defendant in the above-entitled action, GRACE PETROLEUM
CORPORATION, will take the depositions of the persons listed
below upon oral examination, pursuant to the Federal Rules of
Civil Procedure, before a Notary Public or some other officer

1 authorized by law to administer oaths. The oral examinations
2 will continue from day to day until completed. You are invited
3 to attend and cross-examine.

- 4 1. Victor J. Kimm
- 5 2. Alexis Smith
- 6 3. Debbie Ehlert
- 7 4. Larry Graham
- 8 5. Roger Frenette
- 9 6. Pat Godsil
- 10 7. Seth Hunt
- 11 8. Allan J. Morrissey
- 12 9. Thomas E. Belk
- 13 10. Allan Levin
- 14 11. Paul Baltay
- 15 12. John Chamberlain
- 16 13. John Capacasa
- 17 14. Joseph Harrison
- 18 15. All individuals who are or were employed by the
19 United States of America and who are not presently
20 residing in the Denver area or Montana who had any
21 contact with Grace Petroleum Corporation regarding
22 the UIC program from June 15, 1984 through January 2,
23 1986.
- 24 16. All individuals who are or were employed by the
25 United States of America and who are not presently
residing in the Denver area or Montana who were in
any way involved in the decision regarding the initial
"call-in" in Montana; were involved in processing the
permit application of Grace; reviewed the file to
determine if suit should be filed against Grace; or
were consulted in any way or participated in the

1 decision to sue Grace.

- 2 17. All individuals who are or were employed by the
3 United States of America who are not presently
4 residing in the Denver area or Montana who you intend
5 to call as a witness.
6
7 18. All individuals who are or were employed by the
8 United States of America and who are not presently
9 residing in the Denver area or in Montana who were
10 employed in the Helena or the Denver office of the
11 Environmental Protection Agency in July and early
12 August of 1984 and who could have talked to Matt
13 Strever or responded to questions concerning the
14 UIC program.
15
16 19. All individuals who are or were employed by the United
17 States of America who drafted or worked on the drafting
18 of the language contained in Regulation 40 C.F.R.,
19 Section 144.25(4)(b) and Regulation 40 C.F.R., Section
20 124.20(d).

21 DATED this 15 day of June, 1987.

22 CROWLEY, HAUGHEY, HANSON,
23 TOOLE & DIETRICH

24 By:

25 Jack Ramirez by J.P.S. Des
Jack Ramirez

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

F. Henry Habicht, II
Assistant Attorney General
Land & Natural Resources Division
United States Department of Justice
Washington, D. C. 20530

Bryan H. Dunbar
United States Attorney
George F. Darragh, Jr.
Assistant United States Attorney
P. O. Box 3446
Great Falls, Montana 59403

George A. Rathorg

Donohue, B

6/3/87

FILED

1987 JUN -3 AM 8:43

LOU ALLEN, JR. CLERK

BY _____
DEPUTY CLERK

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P.O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
12 Plaintiff,	)	ORDER EXTENDING TIME
	)	<u>TO SERVE AND FILE REPLY BRIEF</u>
13 vs.	)	<u>IN SUPPORT OF MOTION FOR</u>
	)	<u>SUMMARY JUDGMENT AND IN</u>
14 GRACE PETROLEUM CORPORATION,	)	<u>OPPOSITION TO THE UNITED</u>
	)	<u>STATES' CROSS-MOTION AND</u>
15 Defendant.	)	<u>MEMORANDUM IN SUPPORT OF THE</u>
	)	<u>UNITED STATES' CROSS-MOTION</u>
16	)	<u>FOR PARTIAL SUMMARY JUDGMENT</u>

17 Pursuant to the timely motion of defendant accompanied
18 by a supporting affidavit of counsel, Grace Petroleum Corpora-
19 tion is hereby granted to and including June 22, 1987, in
20 which to serve and file its Reply Brief in Support of Motion
21 for Summary Judgment and in Opposition to the United States'
22 Cross-Motion for Partial Summary Judgment. Defendant's motion
23 for summary judgment was served on December 2, 1986, and the
24 United States' cross-motion for partial summary judgment on
25 January 14, 1987.

20-5-17-2383
DEPARTMENT OF JUSTICE R
JUN 16 1987
LAN.

1 Dated:

June 2, 1987

2
3 PAUL G. HATFIELD

4 United States District Judge
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

5/29/87

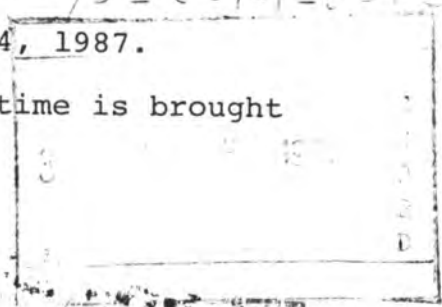
1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P.O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
12 Plaintiff,	)	MOTION FOR EXTENSION OF TIME
	)	<u>TO SERVE AND FILE REPLY BRIEF</u>
13 vs.	)	<u>IN SUPPORT OF MOTION FOR</u>
	)	<u>SUMMARY JUDGMENT AND IN</u>
14 GRACE PETROLEUM CORPORATION,	)	<u>OPPOSITION TO THE UNITED</u>
	)	<u>STATES' CROSS-MOTION AND</u>
15 Defendant.	)	<u>MEMORANDUM IN SUPPORT OF THE</u>
	)	<u>UNITED STATES' CROSS-MOTION</u>
16	)	<u>FOR PARTIAL SUMMARY JUDGMENT</u>

17 COMES NOW the defendant, Grace Petroleum Corporation,
18 and timely moves this Court for its order granting an extension
19 of time, to and including June 22, 1987, in which to serve and
20 file its Reply Brief in Support of Motion for Summary Judgment
21 and in Opposition to the United States' Cross-Motion for Partial
22 Summary Judgment. Defendant's motion for summary judgment was
23 served on December 2, 1986, and the United States' cross-motion
24 for partial summary judgment on January 14, 1987.

25 Defendant's motion for extension of time is brought



1 pursuant to Local Rule 220-3. As reflected in the accompanying
2 affidavit by undersigned counsel, this extension is required in
3 order to adequately prepare the reply brief in this matter,
4 should it become necessary to do so, after a meeting with the
5 United States' legal counsel and representatives set for
6 Washington, D.C., on June 10, 1987, in an effort to settle.

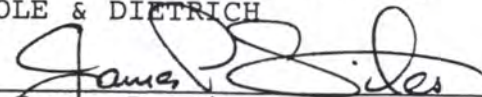
7 The Court may be further advised that, as required,
8 undersigned counsel has contacted the lead trial attorney for
9 the United States, Mr. Brian Donohue, U. S. Department of
10 Justice, Land & Natural Resources Division, regarding this
11 motion to extend time. Mr. Donohue was not able to consent
12 to this motion.

13 A proposed Order is attached hereto.

14 Dated this 29th day of May, 1987.

15 CROWLEY, HAUGHEY, HANSON,
16 TOOLE & DIETRICH

17 By



James P. Sites

P.O. Box 2529

Billings, Montana 59103

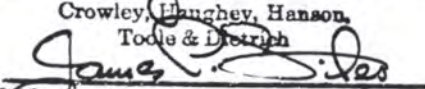
Attorneys for Defendant

21 **CERTIFICATE OF SERVICE**

22 This is to certify that the foregoing was duly
23 served by mail upon parties or attorneys of re-
cord at their address or addresses this 29th
day of May, 1987

24 Crowley, Haughey, Hanson,
Toole & Dietrich

25 By



P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P.O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8
9 IN THE UNITED STATES DISTRICT COURT
10
11 FOR THE DISTRICT OF MONTANA
12
13 GREAT FALLS DIVISION
14

11 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
12)
13 Plaintiff,)
14)
15 vs.) AFFIDAVIT
16)
17 GRACE PETROLEUM CORPORATION,)
18)
19 Defendant.)

16 STATE OF MONTANA)
17) ss.
18 County of Yellowstone)

19 JAMES P. SITES, of lawful age, being first duly sworn
20 upon oath, deposes and says:

21 1. This is a civil action commenced by the United
22 States of America on behalf of the Environmental Protection
23 Agency.

24 2. That the firm of Crowley, Haughey, Hanson, Toole
25 & Dietrich, by Jack Ramirez, a Partner thereof, represents
the defendant, Grace Petroleum Corporation, in this civil

1 action. As a lawyer employed by the firm, James P. Sites is
2 assisting in the defense of this action under Mr. Ramirez's
3 direction.

4 3. On December 2, 1986, the defendant, Grace Petroleum
5 Corporation, served its brief in support of its summary
6 judgment motion.

7 4. Defendant's supporting memorandum was timely served,
8 pursuant to an extension of time granted by the Court. The
9 motion for summary judgment was served and filed on November
10 17, 1986.

11 5. On January 14, 1987, the plaintiff, United States,
12 served its memorandum response to defendant's motion for
13 summary judgment and in support of its cross-motion for partial
14 summary judgment. Its cross-motion for partial summary judgment
15 was served the same day.

16 6. Pursuant to Order of Court filed March 26, 1987,
17 defendant has to and including May 29, 1987, within which to
18 serve and file a reply brief in support of its motion for
19 summary judgment and in opposition to the United States' cross-
20 motion and memorandum in support of the United States' cross-
21 motion for partial summary judgment. Extensions have been
22 granted by the Court, and unobjected to by lead government
23 counsel, during Mr. Ramirez's absence from this firm to
24 attend the recently completed regular session of the Montana
25 Legislature, as a Member thereof.

1 7. Defendant, Grace Petroleum Corporation, desires to
2 serve and file a reply brief, if this case does not settle,
3 and has so informed the lead trial attorney for the United
4 States, Mr. Brian Donohue, U. S. Department of Justice;
5 however, it requires an extension of time to do so for 10
6 days after a settlement meeting with the United States'
7 legal counsel and representatives, set for Washington, D.C.,
8 on June 10, 1987.

9 8. Tentative agreement had been reached with Mr.
10 Donohue to meet on May 19, 1987, with him, and other federal
11 officials, in Washington, D.C., in an effort to settle.
12 Defendant's counsel was informed by Mr. Donohue that a
13 number of governmental representatives would have to be
14 present at this settlement conference. On information and
15 belief, one of the necessary governmental representatives,
16 who had first committed to being available in Washington,
17 D.C., on May 19th, made other plans, resulting in his un-
18 availability and the postponement of the meeting, to discuss
19 settlement possibilities, until June 10, 1987.

20 9. Mr. Ramirez informs me that lead trial counsel
21 representing the United States, Mr. Brian G. Donohue, U. S.
22 Department of Justice, Land & Natural Resources Division,
23 has been contacted regarding the accompanying motion to
24 extend time and was not able to consent to this motion. On
25 January 27, 1987, Mr. Donohue wrote Mr. Ramirez that: "...

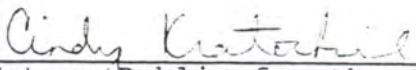
1 it is appropriate to meet to see if settlement is possible"
2 and "(i)f chances for settlement are favorable after that ... ,
3 an additional extension will no doubt be appropriate."

4 IN WITNESS WHEREOF, affiant has hereunto subscribed his
5 name.

6 DATED this 29th
7 day of May, 1987.


James P. Sites

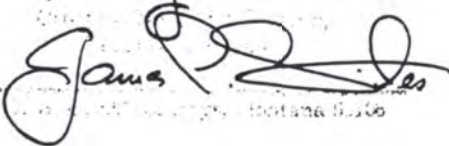
8 Subscribed and sworn to before me this 29th day of
9 May, 1987.

10 
11 Notary Public for the State of Montana
12 Residing at Billings, Montana
13 My commission expires 12/15/89

14 (SEAL)

15
16 **CERTIFICATE OF SERVICE**

17 This is to certify that the foregoing was duly
18 served by mail upon persons or attorneys of
19 record at their address or addresses and on the 29th
20 day of May, 1987.

21 
22
23
24
25

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P.O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
12 Plaintiff,	)	ORDER EXTENDING TIME
	)	<u>TO SERVE AND FILE REPLY BRIEF</u>
13 vs.	)	<u>IN SUPPORT OF MOTION FOR</u>
	)	<u>SUMMARY JUDGMENT AND IN</u>
14 GRACE PETROLEUM CORPORATION,	)	<u>OPPOSITION TO THE UNITED</u>
	)	<u>STATES' CROSS-MOTION AND</u>
15 Defendant.	)	<u>MEMORANDUM IN SUPPORT OF THE</u>
	)	<u>UNITED STATES' CROSS-MOTION</u>
	)	<u>FOR PARTIAL SUMMARY JUDGMENT</u>

17 Pursuant to the timely motion of defendant accompanied
18 by a supporting affidavit of counsel, Grace Petroleum Corpora-
19 tion is hereby granted to and including June 22, 1987, in
20 which to serve and file its Reply Brief in Support of Motion
21 for Summary Judgment and in Opposition to the United States'
22 Cross-Motion for Partial Summary Judgment. Defendant's motion
23 for summary judgment was served on December 2, 1986, and the
24 United States' cross-motion for partial summary judgment on
25 January 14, 1987.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Dated: _____

United States District Judge



FILE

DTB:BGD:rab
90-5-1-1-2383

Washington, D.C. 20530

May 21, 1987

Jack Ramirez, Esquire
Crowley, Haughey, Hanson,
Toole & Dietrich
500 Transwestern Plaza II
490 North 31st Street
P.O. Box 2529
Billings, Montana 59103-2529

Re: United States v. Grace Petroleum Corporation

Dear Jack:

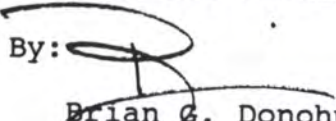
This will confirm our meeting on June 10, 1987 to discuss settlement of the above-captioned matter. I have arranged to have a conference room available between 8:30 a.m. and 11:30 a.m. at the Judiciary Center Building, 555-4th Street, N.W., Washington, D.C. 20001. The room number is 11410. I arranged for the meeting to take place at the Judiciary Center Building in order that Alan Morrissey will have more time to devote to it prior to attending court.

I appreciate your consideration in having the meeting here in order to allow Alan the opportunity to attend.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By:


Brian G. Donohue
Attorney

Environmental Enforcement Section

cc: Al Smith
Alan Morrissey
David Drelich
Patrick Crotty
Laura Clemmens
Don Olson
Sheila Jones



DTB:BGD:rab
90-5-1-1-2383

FILE

Washington, D.C. 20530

May 21, 1987

Alan Morrissey, Esquire
Assistant United States Attorney
District of Columbia
U.S. Courthouse Room 2800
3rd & Constitution Avenue, N.W.
Washington, D.C. 20001

Alfred Smith, Esquire
Assistant Regional Counsel
U.S. Environmental Protection
Agency Region VIII
One Denver Place
999 18th Street, Suite 1300
Denver, Colorado 80202-2413

David Drelich, Esquire
Attorney
U.S. Environmental Protection
Agency
401 M Street, S.W.
Washington, D.C.

Re: United States v. Grace Petroleum Corporation

Gentlemen:

This will confirm that we will be meeting with Grace Petroleum Corporation to discuss settlement of this matter on June 10, 1987, at 8:30 a.m. I am trying to arrange to have the meeting at an office near the courthouse so that we do not infringe too greatly on Alan's work at the U.S. Attorney's office. I'll let you know the location in the near future.

It is imperative that we have a consistent bottom line figure between Headquarters and Region VIII prior to going into the meeting. I am assured by Al that Region VIII is submitting a proposal to Headquarters this week so that we will arrive at that figure. If we do not have such a figure, I see no reason to go on with the meeting. Thus, please let me know what that figure is by June 5, 1987.

- 2 -

Thank you for your attention to this matter.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue
Environmental Enforcement Section

Donohue B

3/26/87

FILED

1987 MAR 26 PM 1:54

LOU ALEKSICH, JR. CLERK

BY Carol A. Henderson
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GRACE PETROLEUM CORPORATION,

Defendant.

No. CV-86-03-GF-PGH

ORDER EXTENDING TIME
TO SERVE AND FILE REPLY BRIEF
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT AND IN
OPPOSITION TO THE UNITED
STATES' CROSS-MOTION AND
MEMORANDUM IN SUPPORT OF THE
UNITED STATES' CROSS-MOTION
FOR PARTIAL SUMMARY JUDGMENT

Pursuant to the timely motion of defendant accompanied by a supporting affidavit of counsel, trial counsel has no objection thereto, Grace Petroleum Corporation is hereby granted to and including May 29, 1987, in which to serve and file its Reply Brief in Support of Motion for Summary Judgment and in Opposition to the United States' Cross-Motion for Partial Summary Judgment. Defendant's motion for

MAR 31 1987

RECEIVED / 1987 MAR 31

1 summary judgment was served on December 2, 1986, and the United
2 States' cross-motion for partial summary judgment on January 14,
3 1987.

4 Dated: MAR 26 1987

5
6 PAUL G. HATFIELD
7 United States District Judge
8
9
10
11
12
13
14
15
16
17
18
19
20

nonotue

3/25/87

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
13)	
14 Plaintiff,	)	<u>MOTION FOR EXTENSION OF TIME</u>
15	)	<u>TO SERVE AND FILE REPLY BRIEF</u>
16 vs.	)	<u>IN SUPPORT OF MOTION FOR</u>
17 GRACE PETROLEUM CORPORATION,	)	<u>SUMMARY JUDGMENT AND IN</u>
18	)	<u>OPPOSITION TO THE UNITED</u>
19 Defendant.	)	<u>STATES' CROSS-MOTION AND</u>
20	)	<u>MEMORANDUM IN SUPPORT OF THE</u>
21	)	<u>UNITED STATES' CROSS-MOTION</u>
22	)	<u>FOR PARTIAL SUMMARY JUDGMENT</u>

23 COMES NOW the defendant, Grace Petroleum Corporation,
24 and timely moves this Court for its order granting an extension
25 of time, to and including May 29, 1987, in which to serve and
file its Reply Brief in Support of Motion for Summary Judgment
and in Opposition to the United States' Cross-Motion for Partial
Summary Judgment. Defendant's motion for summary judgment was
served on December 2, 1986, and the United States' cross-motion

1 for partial summary judgment on January 14, 1987.

2 Defendant's motion for extension of time is brought
3 pursuant to Local Rule 220-3. As reflected in the accompanying
4 affidavit by undersigned counsel, this extension is required in
5 order to adequately prepare the reply brief in this matter in
6 light of Mr. Ramirez's present absence to serve as a Member of
7 the Legislature.

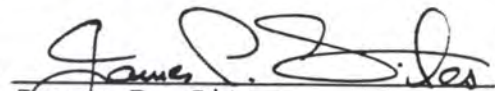
8 The Court may be further advised that, as required,
9 undersigned counsel has contacted the lead trial attorney for
10 the United States, Mr. Brian Donohue, U. S. Department of Jus-
11 tice, Land & Natural Resources Division, regarding this motion
12 to extend time. Due to the constraint imposed by the fact that
13 lead counsel for Grace Petroleum Corporation is presently en-
14 gaged as a Member of the Legislature, the government has no ob-
15 jection to this motion.

16 A proposed Order is attached hereto.

17 Dated this 25th day of March, 1987.

18 CROWLEY, HAUGHEY, HANSON,
19 TOOLE & DIETRICH

20 By



James P. Sites

P. O. Box 2529

Billings, Montana 59103

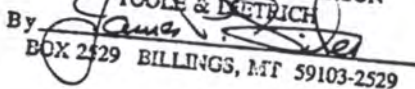
Attorneys for Defendant

22 **CERTIFICATE OF SERVICE**

23 This is to certify that the foregoing was duly
served by mail upon all parties or attorneys of
record at their address or addresses this

24 25th day of March 1987

CROWLEY, HAUGHEY, HANSON
TOOLE & DIETRICH

25 By 
BOX 2529 BILLINGS, MT 59103-2529

1
2
3
4
5
6
7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,)

No. CV-86-03-GF-PGH

13 Plaintiff,)

14 vs.)

15 GRACE PETROLEUM CORPORATION,)

16 Defendant.)

ORDER EXTENDING TIME
TO SERVE AND FILE REPLY BRIEF
IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT AND IN
OPPOSITION TO THE UNITED
STATES' CROSS-MOTION AND
MEMORANDUM IN SUPPORT OF THE
UNITED STATES' CROSS-MOTION
FOR PARTIAL SUMMARY JUDGMENT

17
18 Pursuant to the timely motion of defendant accompanied
19 by a supporting affidavit of counsel, showing that lead opposing
20 trial counsel has no objection thereto, Grace Petroleum Corpora-
21 tion is hereby granted to and including May 29, 1987, in which
22 to serve and file its Reply Brief in Support of Motion for Sum-
23 mary Judgment and in Opposition to the United States' Cross-
24 Motion for Partial Summary Judgment. Defendant's motion for
25

1 summary judgment was served on December 2, 1986, and the United
2 States' cross-motion for partial summary judgment on January 14,
3 1987.

4 Dated: _____

6 United States District Judge

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P. O. Box 2529
6 Billings, Montana 59103
7 406-252-3441

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,) No. CV-86-03-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) AFFIDAVIT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 STATE OF MONTANA)
22) SS.
23 County of Yellowstone)

24 JAMES P. SITES, of lawful age, being first duly sworn
25 upon oath, deposes and says:

1. This is a civil action commenced by the United
States of American on behalf of the Environmental Protection
Agency.

2. That the firm of Crowley, Haughey, Hanson, Toole &

1 Dietrich, by Jack Ramirez, a Partner thereof, represents the de-
2 fendant, Grace Petroleum Corporation, in this civil action. As
3 a lawyer employed by the firm, James P. Sites is assisting in
4 the defense of this action under Mr. Ramirez's direction and
5 monitoring the file during his absence at the present regular
6 session of the Montana Legislature.

7 3. On December 2, 1986, the defendant, Grace
8 Petroleum Corporation, served its brief in support of its sum-
9 mary judgment motion.

10 4. Defendant's supporting memorandum was timely
11 served, pursuant to an extension of time granted by the Court.
12 The motion for summary judgment was served and filed on November
13 17, 1986.

14 5. On January 14, 1987, the plaintiff, United States,
15 served its memorandum response to defendant's motion for summary
16 judgment and in support of its cross-motion for partial summary
17 judgment. Its cross-motion for partial summary judgment was
18 served the same day.

19 6. Pursuant to Order of Court filed March 3, 1987,
20 defendant has to and including March 27, 1987, within which to
21 serve and file a reply brief in support of its motion for sum-
22 mary judgment and in opposition to the United States' cross-
23 motion and memorandum in support of the United States' cross-
24 motion for partial summary judgment.

25 7. Defendant, Grace Petroleum Corporation, desires to

1 serve and file a reply brief and has so informed the lead trial
2 attorney for the United States, Mr. Brian Donohue, U. S. Depart-
3 ment of Justice; however, it requires an extension of time to do
4 so.

5 8. Due to the press of other matters, the legal re-
6 search and briefing required and, primarily, the fact that lead
7 counsel responsible for conducting the defense of this action,
8 Jack Ramirez, a Partner in the firm, is attending the present
9 session of the Montana Legislature as a Member, a further expan-
10 sion of time to and including May 29, 1987, for the reply brief
11 is needed. This extended period sought is to a time about 30
12 days after the conclusion of the regular session.

13 9. Lead trial counsel representing the United States,
14 Mr. Brian G. Donohue, U. S. Department of Justice, Land & Natu-
15 ral Resources Division, has been contacted by the undersigned
16 regarding the accompanying motion to extend time and has autho-
17 rized me to represent that due to the constraint imposed by the
18 fact that lead counsel for Grace Petroleum Corporation is
19 presently engaged as a Member of the Legislature, the government
20 has no objection to this motion.

21 IN WITNESS WHEREOF, affiant has hereunto subscribed
22 his name.

23
24 
James P. Sites
25

1 Subscribed and sworn to before me this 25th day of
2 March, 1987.

3 *Lyman M. Miller*

4 Notary Public for the State of Montana
5 Residing at Billings, Montana
6 My Commission expires 3-5-90

7 (Seal)

8 **CERTIFICATE OF SERVICE**

9 This is to certify that the foregoing was duly
10 served by mail upon all parties or attorneys of
11 record at their address or addresses this
12 25th day of March 1987

13 CROWLEY, HAUGHEY, HANSON
14 TOOLE & DIBTRICH

15 By Jane [Signature]
16 BOX 2529 BILLINGS, MT 59103-2529



FILE

DTB:BGD:rab
90-5-1-1-2383

Washington, D.C. 20530

March 5, 1987

James Sites, Esq.
P.O. Box 2529
Billings, Montana 59103

Re: United States v. Grace Petroleum Corporation

Dear Jim:

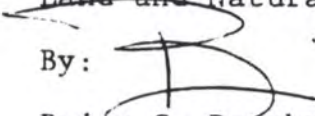
Enclosed is a copy of the United States' response to Grace's motion for an extension of time to file a reply brief to the parties' summary judgment motions. Since I am sure the judge will be sensitive to the Montana legislative session, and therefore Jack Ramirez's time constraints, I have not objected to this second request.

However, I am concerned that I have yet to receive from Jack or you a response to my letter regarding settlement negotiations. It was my distinct impression from you that we would be able to fit into Jack's schedule to discuss this matter during the last period of extension. If Grace is not so inclined to meet again, please let me know. This, of course, has a bearing on my ability to acquiesce to further extensions in this matter.

Sincerely,

Assistant Attorney General
~~Land and Natural Resources Division~~

By:


Brian C. Donohue, Attorney
Environmental Enforcement Section

cc: Jack Ramirez
Al Smith
Alan Morrissey

LODGED

D-notice, B

FILED

1987 MAR -3 AM 11: 29

LOU ALEKSICH, JR. CLERK

By Jack Ramirez

Deputy James P. Sites

2 Crowley, Haughey, Hanson,
Toole & Dietrich
3 P.O. Box 2529
Billings, MT 59103
4 406-252-3441

LOU ALEKSICH, JR. CLERK

BY PATRICIA A. McGUIRE
DEPUTY CLERK

3/3/87

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11)
Plaintiff,)
12 vs.) ORDER EXTENDING TIME
13 GRACE PETROLEUM CORPORATION,) TO SERVE AND FILE REPLY BRIEF
14 Defendant.) IN SUPPORT OF MOTION FOR SUMMARY
15) JUDGMENT AND IN OPPOSITION TO THE
16) UNITED STATES' CROSS-MOTION AND
17) MEMORANDUM IN SUPPORT OF THE
18) UNITED STATES' CROSS-MOTION FOR
19) PARTIAL SUMMARY JUDGMENT

20 Pursuant to the timely motion of defendant accompanied by
21 a supporting affidavit of counsel, Grace Petroleum Corporation
22 is hereby granted to and including March 27, 1987, in which to
23 serve and file its Reply Brief In Support Of Motion For Summary
24 Judgment And In Opposition To The United States' Cross-Motion
25 For Partial Summary Judgment. Defendant's motion for summary
judgment was served on December 2, 1986, and the United States'
cross-motion for partial summary judgment on January 14, 1987.

DATED: March 2, 1987

United States District Judge

44

MAR 9 1987

LANDS

20-5-1-2383	
DEPARTMENT OF JUSTICE	P
44	E
MAR 9 1987	O
LANDS	F

Donohue, B

2/27/87

1 Jack Ramirez
James P. Sites
2 Crowley, Haughey, Hanson,
Toole & Dietrich
3 P.O. Box 2529
Billings, MT 59103
4 406-252-3441

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
Plaintiff,	)	<u>MOTION FOR EXTENSION OF TIME</u>
	)	<u>TO SERVE AND FILE REPLY BRIEF IN</u>
vs.	)	<u>SUPPORT OF MOTION FOR SUMMARY</u>
	)	<u>JUDGMENT AND IN OPPOSITION TO THE</u>
GRACE PETROLEUM CORPORATION,	)	<u>UNITED STATES' CROSS-MOTION AND</u>
	)	<u>MEMORANDUM IN SUPPORT OF THE</u>
Defendant.	)	<u>UNITED STATES' CROSS-MOTION FOR</u>
	)	<u>PARTIAL SUMMARY JUDGMENT</u>

COMES NOW the defendant, Grace Petroleum Corporation,
and timely moves this Court for its order granting an extension
of time, to and including March 27, 1987, in which to serve and
file its Reply Brief In Support Of Motion For Summary Judgment
And In Opposition To The United States' Cross-Motion For
Partial Summary Judgment. Defendant's motion for summary
judgment was served on December 2, 1986, and the United States'
cross-motion for partial summary judgment on January 14, 1987.

Defendant's motion for extension of time is brought pursuant
to Local Rule 220-3. As reflected in the accompanying affidavit

20-5-1-2383	
44	MAR 2 1987
LAWSON	
RECEIVED	

1 by undersigned counsel, this extension is required in order
2 to adequately prepare the reply brief in this matter in light
3 of Mr. Ramirez's present absence to serve as a Member of the
4 Legislature.

5 The Court may be further advised that, as required,
6 undersigned counsel has attempted on three occasions to contact
7 the lead trial attorney for the United States, Mr. Brian
8 Donohue, U.S. Department of Justice, Land & Natural Resources
9 Division, regarding this motion to extend time. While Mr.
10 Donohue has been unavailable, based on prior contacts with him
11 it is thought that the government has no objection to this motion.
12 The Court will be further informed with respect to the
13 governmental position as soon as Mr. Donohue is reached.

14 A proposed Order is attached hereto.

15 DATED this 27th day of February, 1987.

16 CROWLEY, HAUGHEY, HANSON,
17 TOOLE & DIETRICH

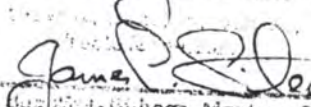
18 By: 

19 James P. Sites
20 P.O. Box 2529
Billings, Montana 59103

21 Attorneys for Defendant

22 CERTIFICATE OF SERVICE

23 This is to certify that the foregoing was duly
24 served by the undersigned on the parties of the
25 court in this matter on the 27th day of February, 1987.


25 P.O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 James P. Sites
3 Crowley, Haughey, Hanson,
4 Toole & Dietrich
5 P.O. Box 2529
6 Billings, MT 59103
7 406-252-3441

8
9
10 IN THE UNITED STATES DISTRICT COURT
11
12 FOR THE DISTRICT OF MONTANA
13
14 GREAT FALLS DIVISION
15

16 UNITED STATES OF AMERICA,) Cause No. CV 86-003-GF-PGH
17)
18 Plaintiff,) AFFIDAVIT
19)
20 vs.)
21)
22 GRACE PETROLEUM CORPORATION,)
23)
24 Defendant.)
25

James P. Sites, of lawful age, being first duly sworn
upon oath, deposes and says:

1. This is a civil action commenced by the United States
of America on behalf of the Environmental Protection Agency.

2. That the firm of Crowley, Haughey, Hanson, Toole &
Dietrich, by Jack Ramirez, a partner thereof, represents the
defendant, Grace Petroleum Corporation, in this civil action.
As a lawyer employed by the firm, James P. Sites is assisting
in the defense of this action.

3. On December 2, 1986, the defendant, Grace Petroleum
Corporation, served its brief in support of its summary judgment

1 motion.

2 4. Defendant's supporting memorandum was timely served,
3 pursuant to an extension of time granted by the Court. The
4 motion for summary judgment was served and filed on November
5 17, 1986.

6 5. On January 14, 1987, the plaintiff, United States,
7 served its memorandum response to defendant's motion for summary
8 judgment and in support of its cross-motion for partial summary
9 judgment. Its cross-motion for partial summary judgment was
10 served the same day.

11 6. Pursuant to Order of Court filed January 29, 1987,
12 defendant has to and including February 27, 1987, within which
13 to serve and file a reply brief in support of its motion for
14 summary judgment and in opposition to the United States'
15 cross-motion and memorandum in support of the United States'
16 cross-motion for partial summary judgment.

17 7. Defendant, Grace Petroleum Corporation, desires to
18 serve and file a reply brief and has so informed the lead
19 trial attorney for the United States, Mr. Brian Donohue, U.S.
20 Department of Justice; however, it requires an extension of
21 time to do so.

22 8. Due to the press of other matters, the legal research
23 and briefing required and, primarily, the fact that lead
24 counsel responsible for conducting the defense of this action,
25 Jack Ramirez, a partner in the firm, is attending the present

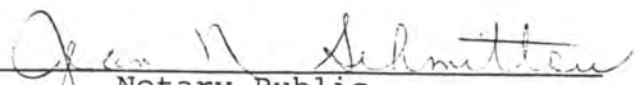
1 session of the Montana Legislature as a Member, a further
2 expansion of time for 30 days for the reply brief is needed.

3 9. On three occasions attempts have been made to
4 contact the lead trial counsel representing the United States,
5 Mr. Brian G. Donohue, U.S. Department of Justice, Land &
6 Natural Resources Division. While Mr. Donohue has been
7 unavailable, based on prior contacts with him it is thought
8 that the government has no objection to this motion. The
9 Court will be further informed with respect to the governmental
10 position as soon as Mr. Donohue is reached.

11 IN WITNESS WHEREOF, Affiant has hereunto subscribed
12 his name.

13
14 
15 James P. Sites


16 Subscribed and sworn to before me this 27th day of
17 February, 1987.

18
19 
20 Notary Public
21 State of Montana
22 My commission expires 10-7-87

23 (SEAL)

24 CERTIFICATE OF SERVICE

25 This is to certify that the foregoing was duly
served by me on the 27th day of February, 1987,
at the residence of the defendant.

By 
James P. Sites
P.O. Box 23229 - Billings, Montana 59105

1 Jack Ramirez
James P. Sites
2 Crowley, Haughey, Hanson,
Toole & Dietrich
3 P.O. Box 2529
Billings, MT 59103
4 406-252-3441

5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF MONTANA
8 GREAT FALLS DIVISION
9

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11)
Plaintiff,)
12 vs.) ORDER EXTENDING TIME
13 GRACE PETROLEUM CORPORATION,) TO SERVE AND FILE REPLY BRIEF
14 Defendant.) IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT AND IN OPPOSITION TO THE
15) UNITED STATES' CROSS-MOTION AND
MEMORANDUM IN SUPPORT OF THE
16) UNITED STATES' CROSS-MOTION FOR
PARTIAL SUMMARY JUDGMENT

17 Pursuant to the timely motion of defendant accompanied by
18 a supporting affidavit of counsel, Grace Petroleum Corporation
19 is hereby granted to and including March 27, 1987, in which to
20 serve and file its Reply Brief In Support Of Motion For Summary
21 Judgment And In Opposition To The United States' Cross-Motion
22 For Partial Summary Judgment. Defendant's motion for summary
23 judgment was served on December 2, 1986, and the United States'
24 cross-motion for partial summary judgment on January 14, 1987.

25 DATED: _____

United States District Judge

LODGED

JAN 27 1987

Donchue, B

1987 JAN 27 10 13

1 Jack Ramirez
LOU ALEKSCH, JR. James P. Sites
By 2 Crowley, Haughey, Hanson,
Deputy Clerk Toole & Dietrich
3 P.O. Box 2529
Billings, MT 59103
4 406-252-3441

1/29/87

LOU A
BY PATRICIA A. McQUIRE
EE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11 Plaintiff,)
12 vs.) ORDER EXTENDING TIME
13 GRACE PETROLEUM CORPORATION) TO SERVE AND FILE REPLY BRIEF
14 Defendant.) IN SUPPORT OF MOTION FOR SUMMARY
15) JUDGMENT AND IN OPPOSITION TO THE
16) UNITED STATES' CROSS-MOTION AND
17) MEMORANDUM IN SUPPORT OF THE
18) UNITED STATES' CROSS-MOTION FOR
19) PARTIAL SUMMARY JUDGMENT

16 Pursuant to the motion of defendant, Grace Petroleum
17 Corporation, showing that opposing counsel, for the United
18 States, has been contacted concerning the extension sought
19 and has no objection to the motion for same, Grace Petroleum
20 Corporation is hereby granted to and including February 27,
21 1987, in which to serve and file its Reply Brief In Support
22 Of Motion For Summary Judgment And In Opposition To The
23 United States' Cross-Motion And Memorandum In Support Of The
24 United States' Cross-Motion For Partial Summary Judgment.
25 Defendant's motion for summary judgment was served on December

65-11-2383
44 FEB 3 1987
LANDS
RECEIVED

1 2, 1986, and the United States' cross-motion for partial
2 summary judgment on January 14, 1987.

3
4 DATED: January 29, 1987

5 **PAUL G. HATFIELD**
6 United States District Judge
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



U.S. Department of Justice

DTB:BGD:rab
90-5-1-1-2383

FILE

Washington, D.C. 20530

January 27, 1987

Honorable Jack Ramirez
Member, Montana House of
Representatives
Capitol Station
Helena, Montana 59620

Re: United States v. Grace Petroleum Corp.

Dear Jack:

As you are aware, the United States has now filed its response to Grace's summary judgment motion. Thus, as we discussed, it is appropriate to meet to see if settlement is possible.

In that view, I have recently spoken to Jim Sites of your office regarding Grace's response to the United States' cross-motion for summary judgment and will not object to an extension of an additional thirty days in which to respond thereto. If chances for settlement are favorable after that period, an additional extension will no doubt be appropriate.

I understand that you are in the midst of the legislative session and that a meeting may be difficult to arrange. I am certainly not adverse to traveling to Helena, however. I look forward to hearing from you.

Sincerely,

Assistant Attorney General
~~Land and Natural Resources Division~~

By: 

Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Al Smith
Alan Morrissey

1 Jack Ramirez
 2 James P. Sites
 3 Crowley, Haughey, Hanson,
 4 Toole & Dietrich
 5 P.O. Box 2529
 6 Billings, MT 59103
 7 406-252-3441

1/14/87

8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE DISTRICT OF MONTANA
 10 GREAT FALLS DIVISION

11 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
12 Plaintiff,)	
13 vs.	)	<u>MOTION FOR EXTENSION OF TIME</u>
14 GRACE PETROLEUM CORPORATION	)	<u>TO SERVE AND FILE REPLY BRIEF IN</u>
15 Defendant.	)	<u>SUPPORT OF MOTION FOR SUMMARY</u>
	)	<u>JUDGMENT AND IN OPPOSITION TO THE</u>
	)	<u>UNITED STATES' CROSS-MOTION AND</u>
	)	<u>MEMORANDUM IN SUPPORT OF THE</u>
	)	<u>UNITED STATES' CROSS-MOTION FOR</u>
	)	<u>PARTIAL SUMMARY JUDGMENT</u>

16 COMES NOW the defendant, Grace Petroleum Corporation,
 17 and timely moves this Court for its order granting an extension
 18 of time, to and including February 27, 1987, in which to serve
 19 and file its Reply Brief In Support Of Motion For Summary
 20 Judgment And In Opposition To The United States' Cross-Motion
 21 And Memorandum In Support Of The United States' Cross-Motion For
 22 Partial Summary Judgment. Defendant's motion for summary
 23 judgment was served on December 2, 1986, and the United States'
 24 cross-motion for partial summary judgment on January 14, 1987.

25 Defendant's motion for extension of time is brought

60-5-11-2383

44	FEB 3 1987	RECORD
LANDS		

1 pursuant to Local Rule 220-3. As reflected in the accompanying
2 affidavit by undersigned counsel, this extension is required
3 in order to adequately prepare the reply brief in this matter.


4 No previous extensions in regard to this reply brief
5 with reference to the pending matter of summary judgment have
6 been requested.

7 The Court may be further advised that, as required,
8 undersigned counsel has contacted the lead trial attorney
9 for the United States, Mr. Brian Donohue, U.S. Department of
10 Justice, Land & Natural Resources Division, regarding this
11 motion to extend time and Mr. Donohue has authorized us to
12 represent that the government has no objection to this motion.

13 A proposed Order is attached hereto.

14 DATED this 27th day of January, 1987.

15 CROWLEY, HAUGHEY, HANSON,
16 TOOLE & DIETRICH

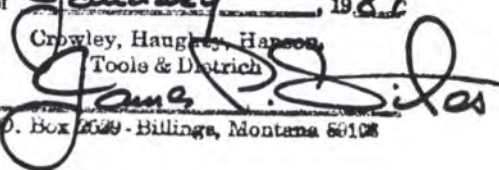
17 By: 
18 James P. Sites
19 P.O. Box 2529
Billings, Montana 59103

20 Attorneys for Defendant

21 **CERTIFICATE OF SERVICE**

22 This is to certify that the foregoing was duly
23 served by mail upon parties or attorneys of
cord at their address or addresses this 27
day of January, 1987

24 Crowley, Haughey, Hanson,
Toole & Dietrich

25 By: 
P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
James P. Sites
2 Crowley, Haughey, Hanson,
Toole & Dietrich
3 P.O. Box 2529
Billings, MT 59103
4 406-252-3441
5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF MONTANA
8 GREAT FALLS DIVISION
9

10 UNITED STATES OF AMERICA,) Cause No. CV 86-003-GF-PGH
11)
Plaintiff,) AFFIDAVIT
12)
vs.)
13)
GRACE PETROLEUM CORPORATION,)
14)
Defendant.)

15 James P. Sites, of lawful age, being first duly sworn
16 upon oath, deposes and says:

17 1. This is a civil action commenced by the United States
18 of America on behalf of the Environmental Protection Agency.

19 2. That the firm of Crowley, Haughey, Hanson, Toole &
20 Dietrich represents the defendant, Grace Petroleum Corporation,
21 in this civil action. As a lawyer employed by the firm,
22 James P. Sites is assisting in the defense of this action.

23 3. On December 2, 1986, the defendant, Grace Petroleum
24 Corporation, served its brief in support of its summary judgment
25 motion.

1 4. Defendant's supporting memorandum was timely served,
2 pursuant to an extension of time granted by the Court. The
3 motion for summary judgment was served and filed on November
4 17, 1986.

5 5. On January 14, 1987, the plaintiff, United States,
6 served its memorandum response to defendant's motion for
7 summary judgment and in support of its cross-motion for partial
8 summary judgment. Its cross-motion for partial summary judgment
9 was served the same day.

10 6. Under Local Rule 220-1 defendant has 10 days within
11 which to serve and file a reply brief in support of its motion
12 for summary judgment and in opposition to the United States'
13 cross-motion and memorandum in support of the United States'
14 cross-motion for partial summary judgment.

15 7. Defendant, Grace Petroleum Corporation, desires to
16 serve and file a reply brief and has so informed the lead
17 trial attorney for the United States, Mr. Brian G. Donohue,
18 U.S. Department of Justice; however, it requires an extension
19 of time to do so.

20 8. Due to the press of other matters, the legal research
21 and briefing required and the fact that lead counsel responsible
22 for conducting the defense of this action, Jack Ramirez, a
23 partner in the firm, is attending the present session of the
24 Montana Legislature as a Member, an expansion of time for
25 about 30 days for the reply brief is needed.

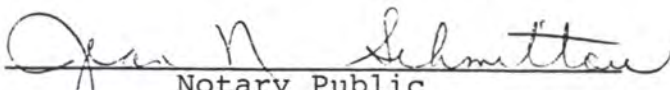
1 9. Attorneys for the parties have agreed between
2 themselves that defendant may have to and including February
3 27, 1987, in which to serve and file its reply brief.

4 10. Lead trial counsel representing the defendant,
5 Mr. Brian G. Donohue, has been contacted by the undersigned
6 regarding the accompanying motion to extend time and has
7 authorized me to represent that he has no objection to the
8 motion.

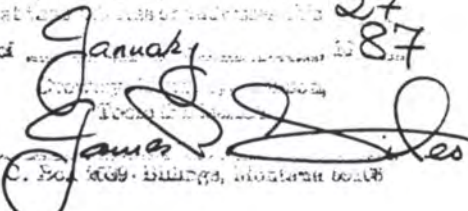
9 IN WITNESS WHEREOF, Affiant has hereunto subscribed
10 his name.

11
12 
James P. Sites

13 Subscribed and sworn to before me this 27th day of
14 January, 1987.

15
16
17 
Notary Public
State of Montana
My commission expires 10-7-87

18
19 (SEAL)
20
21
22

23 This is to certify that the foregoing
24 proceedings were taken and the same are
25 correct and true to the best of my knowledge
day of January 27 1987
By 
P. C. Sites, Notary Public

1 Jack Ramirez
James P. Sites
2 Crowley, Haughey, Hanson,
Toole & Dietrich
3 P.O. Box 2529
Billings, MT 59103
4 406-252-3441

5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF MONTANA
8 GREAT FALLS DIVISION
9

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11)
Plaintiff,)
12 vs.) ORDER EXTENDING TIME
13 GRACE PETROLEUM CORPORATION) TO SERVE AND FILE REPLY BRIEF
14 Defendant.) IN SUPPORT OF MOTION FOR SUMMARY
15) JUDGMENT AND IN OPPOSITION TO THE
16) UNITED STATES' CROSS-MOTION AND
17) MEMORANDUM IN SUPPORT OF THE
18) UNITED STATES' CROSS-MOTION FOR
19) PARTIAL SUMMARY JUDGMENT

20 Pursuant to the motion of defendant, Grace Petroleum
21 Corporation, showing that opposing counsel, for the United
22 States, has been contacted concerning the extension sought
23 and has no objection to the motion for same, Grace Petroleum
24 Corporation is hereby granted to and including February 27,
25 1987, in which to serve and file its Reply Brief In Support
Of Motion For Summary Judgment And In Opposition To The
United States' Cross-Motion And Memorandum In Support Of The
United States' Cross-Motion For Partial Summary Judgment.
Defendant's motion for summary judgment was served on December

1 2, 1986, and the United States' cross-motion for partial
2 summary judgment on January 14, 1987.
3

4 DATED: _____ United States District Judge
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25



DTB:BGD:rab
90-5-1-1-2383

FILE

Washington, D.C. 20530

January 14, 1987

Clerk
United States District Court
District of Montana
Great Falls Division
P. O. Box 2186
Great Falls, Montana 59403

Re: United States v. Grace Petroleum Corp.,
Civil No. CV. 86-003-GF

Dear Sir/Madam:

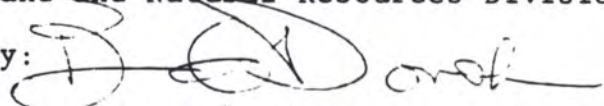
Enclosed for filing is the original and two copies of the United States' cross-motion for summary judgment, and its response to the defendant's summary judgment motion, with supporting memorandum.

Thank you for your assistance.

Sincerely,

Assistant Attorney General
~~Land and Natural Resources Division~~

By:


Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Jack Ramirez
George Darragh, Jr.
Al Smith
Alan Morrissey

1 F. HENRY HABICHT II
Assistant Attorney General

2 BRIAN G. DONOHUE
3 Attorney, Environmental Enforcement Section
Land & Natural Resources Division
4 United States Department of Justice
Washington, DC 20530

5 BYRON H. DUNBAR
6 United States Attorney

7 GEORGE F. DARRAGH, JR.
Assistant United States Attorney
8 P.O. Box 3446
Great Falls, MT 59403

9 Attorneys for United States of America

10
11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF MONTANA
13 GREAT FALLS DIVISION

14
15 UNITED STATES OF AMERICA,)
16 Plaintiff,)
17 v.)
18 GRACE PETROLEUM CORPORATION,)
19 Defendant.)

Civil Action No. CV-86-003-GF

20
21 CROSS-MOTION OF UNITED STATES
22 OF AMERICA FOR PARTIAL SUMMARY JUDGMENT


23 The United States of America, through undersigned
24 counsel, hereby moves the Court to enter, pursuant to Rule 56 of
25 the Federal Rules of Civil Procedure, summary judgment in favor
26 of the plaintiff on the issue of liability, on the ground

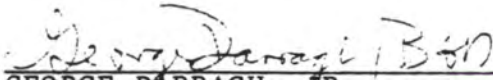
1 that there is no genuine issue of material fact and plaintiff
2 is entitled to judgment as a matter of law.

3 A brief in support hereof accompanies this motion.

4 Dated this 14th day of January, 1987.

5 Respectfully submitted,

6
7
8 
9 BRIAN DONOHUE
10 Environmental Enforcement Section
11 Land and Natural Resources Division
12 Department of Justice
13 10th & Pennsylvania Avenue, N.W.
14 Washington, DC 20530
15 (202) 633-5590

16
17 
18 GEORGE DARRAGH, JR.
19 Assistant United States Attorney
20 212 Federal Building
21 P.O. Box 3446
22 Great Falls, MT 59403
23 (406) 761-7715

24
25 - 2 -
26

1 F. HENRY HABICHT II
Assistant Attorney General
2
3 BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
4 United States Department of Justice
Washington, DC 20530
5
6 BYRON H. DUNBAR
United States Attorney
7
8 GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
9
10 Attorneys for United States of America

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF MONTANA
13 GREAT FALLS DIVISION

14
15 UNITED STATES OF AMERICA,)
16 Plaintiff,)
17 v.) Civil Action No. CV-86-003-GF
18 GRACE PETROLEUM CORPORATION,)
19 Defendant.)

20
21 MEMORANDUM OF THE UNITED STATES OF AMERICA
22 IN RESPONSE TO DEFENDANT'S MOTION FOR SUMMARY
23 JUDGMENT AND IN SUPPORT OF PLAINTIFF'S
24 CROSS-MOTION FOR PARTIAL SUMMARY JUDGMENT

25 I. STATEMENT OF THE CASE

26 Presently pending before this Court is the motion of
the defendant, Grace Petroleum Corporation ("Grace"), for

1 summary judgment. This is the United States' response thereto, as
2 well as its memorandum in support of its cross-motion for partial
3 summary judgment.

4 In its motion, Grace argues that it is not liable to
5 the United States for civil penalties under the Safe Drinking
6 Water Act, 42 U.S.C. § 300f, et seq., for the alleged unauthorized
7 operation of three underground injection wells, because Grace
8 submitted the appropriate applications to continue such operation
9 in a timely manner. Essentially, Grace argues that pursuant to
10 its interpretation of the underground injection control regulations
11 and Rule 6(e) of the Federal Rules of Civil Procedure, it was
12 excused from the requirement to timely submit permit applications
13 because the written notice of the application deadline was received
14 by them through the mail.

15 The United States, on the other hand, submits that such
16 applications, which were to be submitted to the United States
17 Environmental Protection Agency ("EPA") by July 30, 1984, but which
18 were not even mailed by Grace before August 1, 1984, were not
19 submitted in a timely fashion. In its argument, Grace has chosen
20 to ignore the relevant case law and clear language of the
21 regulations and Rule 6(e). Therefore, the United States contends
22 that summary judgment in favor of the United States should be
23 granted because Grace lost authority to operate these wells by
24 operation of law, and Grace's knowing operation of these

1 facilities without legal authorization for 60 days thereafter
2 renders it liable for civil penalties.

3 For the reasons discussed below, Grace's motion should
4 be denied and the United States should be granted summary judgment
5 on liability against Grace.

6 II. Procedural and Statutory Background

7 This is a civil action brought by the United States under
8 Section 1423(b) of the Safe Drinking Water Act ("SDWA"), 42 U.S.C.
9 § 300h-2(b) 1/, for violations of the Underground Injection Control
10 ("UIC") regulations promulgated under Part C of the SDWA. 40
11 C.F.R. § 144.1, et seq. The complaint alleges that Grace injected
12 fluids into three UIC wells after it lost the necessary legal
13 authority to do so. 2/

14 The UIC regulations are intended to protect underground
15 aquifers that are, or may be in the future, sources of public
16 drinking water from contamination from the underground disposal

17 1/ At the time of the filing of the complaint, 42 U.S.C.
18 § 300h-2(b) provided, inter alia:

19 Any person who violates any requirement of
20 an applicable underground injection control
21 program or an order requiring compliance under
22 subsection (c) of this section--

23 (1) shall be subject to a civil
24 penalty of not more than \$5,000 for
25 each day of such violation...

26 42 U.S.C. § 300h-2(b) was amended on June 19, 1986, calling for up
to \$25,000 for each day of violation.

2/ This is the first civil action prosecuted under the UIC
regulations.

1 of, inter alia, waste water by oil producers and others. 3/ The
2 SDWA envisions that each state shall have primary responsibility
3 to enact and enforce regulations that protect underground sources
4 of drinking water ("USDW's") consistent with federally established
5 requirements. 42 U.S.C. § 300h-1. If, however, a state fails to
6 adopt a satisfactory regulatory scheme, the EPA assumes primary
7 enforcement responsibility. 42 U.S.C. § 300h-1(c). The State of
8 Montana is one of the states where EPA has primary enforcement
9 authority for promulgation and enforcement of a regulatory program.
10 40 C.F.R. § 147.1350, et seq. The UIC program for the State of
11 Montana became effective on June 25, 1984. 40 C.F.R. § 147.1351(b).

12 All existing Class II 4/ wells are initially authorized
13 by rule to continue to operate. 40 C.F.R. § 144.21. However, EPA
14 may require an owner or operator authorized by rule to apply for a
15 UIC permit. 40 C.F.R. § 144.25. If, after having been notified
16 that a permit must be obtained, an application is not filed in a
17 timely manner as specified in the notice or the application is

18 3/ These regulations are structured, as follows: 40 C.F.R.
19 Part 144 (permitting and general program requirements);
20 Part 145 (requirements for State program applications);
21 Part 146 (technical criteria and standards); Part 124 (public
22 participation and procedural requirements). These regulations
23 establish requirements for five classes of wells: Class I, deep
24 disposal wells for hazardous and other waste; Class II, wells
25 related to oil and gas production and hydrocarbon storage; Class
26 III, wells used in solution mining; Class IV, hazardous
waste-disposal wells other than Class I; and Class V, all other
wells. The three wells at issue here are Class II wells.

4/ One of the problems addressed by the regulations as they
pertain to Class II wells is that oil producers historically
have disposed of brine contaminated water, which is removed
from oil produced by a producing well, by underground injection
via underground injection wells.

1 denied, authority to inject ceases. 40 C.F.R. §§ 144.21 and 144.25.
2 Injection may only then be recontinued if a permit is eventually
3 granted. These requirements are meant to ensure that EPA receives
4 the information necessary to develop injection permits in a timely
5 manner with the ultimate goal of avoiding potential contamination
6 to USDW's.

7 III. Undisputed Material Facts

8 Although Grace, in its memorandum, devotes over 12 pages
9 in the presentation of alleged facts which are immaterial and
10 irrelevant to its motion, the facts necessary for the Court's
11 determination of Grace's liability are few and simple.

12 Essentially, the material facts, which are undisputed,
13 are these:

14 1. Grace has operated at least three underground
15 injection wells in Montana, denominated EPU 110-XD, Goings
16 Government #1, and Buck Elk #2. Grace's Brief in Support
17 of Motion for Summary Judgment (hereinafter, "Grace's Brief"),
18 at 3; Grace's Answers to Second Set of Interrogatories, Nos.
19 1(a), 1(j), 2(a), 3(a).

20 2. EPU-110 XD commenced injection in October 1973,
21 Goings Government #1 commenced injection in May 1977, and Buck
22 Elk commenced injection in December 1967. Grace's Answers to
23 Second Set of Interrogatories, Nos. 1(a), 1(j), 2(a), 3(a).

24 3. The UIC regulations for Montana became effective
25 on June 25, 1984. 40 C.F.R. §147.1351(b).

1 - 4. Region VIII of EPA sent a "call-in" letter dated
2 June 25, 1984, to Grace instructing the defendant to submit
3 applications for the three subject wells by July 30, 1984.
4 The letter indicated that failure to submit the applications
5 in a timely manner would cause Grace to lose authorization to
6 inject. Grace's Answers to First Set of Interrogatories, No.
7 16; Grace's Response to First Request for Admissions, No. 1;
8 Exhibit 1, copy of call-in letter.

9 5. Grace received the call-in letter on June 27, 1984.
10 Grace's Answers to First Set of Interrogatories, No. 16(c);
11 Grace's Response to First Request for Admissions, Nos. 2, 3.

12 6. Despite the instructions contained in the call-in
13 letter, Grace did not mail the applications until August 1, 1984,
14 and then only by regular mail. Grace's Answers to First Set
15 of Interrogatories, No. 16(g); Grace's Response to First Request
16 for Admissions, Nos. 4, 5, 6, 11, 12, 13, 18, 19, 20.

17 7. Grace's applications were received by EPA on
18 August 6, 1984. United States' Answers to First Set of Inter-
19 rogatories, No. 33.

20 8. Grace was readvised that it had lost authority to
21 inject at the three wells in question by letter from EPA dated
22 August 16, 1984. Exhibit 2, copy of letter from EPA to Grace
23 supplied in Grace's Answers to First Set of Interrogatories.

24 9. Despite this notice, Grace continued to inject
25 continuously at EPU-110 XD and Goings Government #1 until
26

1 September 28, 1984, a period of 60 days from July 30, 1984.
2 Grace's Response to First Request for Admissions, Nos. 10, 24.

3 Considering the limited number of facts necessary to
4 decide this question, Grace's presentation of immaterial and
5 irrelevant arguments can only be intended to obfuscate the issue.
6 Unfortunately, to offset this intent, the United States must respond.
7 Because these "facts" are not important to this Court's decision on
8 Grace's motion, however, the United States will do so only briefly.

9 Grace's immaterial "facts" can be grouped under three
10 headings: 1) the complexity of the applications which Grace
11 was required to submit; 2) enforcement actions taken against
12 other oil producers whose injection wells were also called in
13 for permitting; and 3) the length of time now given by EPA for
14 the submission of applications.

15 As to the first group of "facts", clearly, the complexity
16 of the applications has nothing to do with whether Grace submitted
17 timely permit applications. As indicated, Grace received the blank
18 applications on June 27, 1984. Belying Grace's contentions that
19 the applications were so complex is the fact that the defendant
20 waited more than two weeks, until July 15, 1984, before it even
21 began to complete them. Grace's Answers to First Set of
22 Interrogatories, No. 16(e). In addition, when it finally began to
23 complete the applications, it tasked a summer college intern to do
24 so. Grace's Answers to First Set of Interrogatories, Nos. 15,
25 16(e). Finally, even though Grace wasted over two weeks before it

1 began to complete the applications, in the face of such seeming
2 complexity it still managed to submit them, albeit late, within two
3 weeks of when it began. Rather than being the victims of a complex
4 governmental application process, Grace's actions demonstrate a
5 seeming contempt for the UIC regulations. Grace's pleas to the
6 contrary are disingenuous.

7 Grace also indicates that five other operators of wells
8 located in the same location as Grace's wells and who were called
9 in for permitting at the same time as Grace have not been prosecuted,
10 even though their applications were never received or such appli-
11 cations were received late. This contention has nothing to do with
12 the gravamen of this case, i.e. whether Grace violated the law by
13 unauthorized injection for 60 days. In addition, only one of these
14 five other operators called in continued to inject after failing to
15 submit an application. 5/ That case is still under investigation.
16 Clearly, the prosecution of Grace's violations should not be
17 dependent upon whatever determination is ultimately made in another
18 potential case.

19 Finally, Grace intimates that recent call-ins by EPA
20 have allowed more time to submit applications. However, the fact
21 that EPA may have subsequently had different call-in deadlines in

22 5/ One of other five operators filed a timely application.
23 Two operators' wells which were called in actually ceased
24 operation, which was an alternative open to Grace. One other
25 received an extension of time upon written request to submit
26 the application. United States' Answers to First Set of
Interrogatories, No. 42. Grace never submitted a written
request for an extension of time. Grace's Response to First
Set of Requests for Admissions, Nos. 9, 16, 23.

1 no way excuses Grace's failure to comply with the existing
2 regulatory scheme. Again, this is immaterial as to whether
3 Grace violated the law in this instance. 6/

4 IV. Argument

5 A. The United States is entitled to summary judgment
6 on the issue of liability.

7 Rule 56(c) of the Federal Rules of Civil Procedure pro-
8 vides that judgment shall be rendered if the pleadings, depositions,
9 answers to interrogatories, and admissions on file, together with
10 the affidavits, if any, show that there is no genuine issue as to
11 any material fact and that the moving party is entitled to a
12 judgment as a matter of law.

13 The undisputed material facts demonstrate that Grace
14 failed to submit to EPA the requisite permit applications for
15 its injection wells in a timely fashion. Thus, Grace lost legal
16 authority to inject at these wells. Nonetheless, Grace con-
17 tinued to inject at two of the three wells in question for a
18 period of 60 days thereafter, even after EPA notified Grace
19 to discontinue such activities. Therefore, summary judgment
20 against Grace on the issue of liability is appropriate.

21 B. 40 C.F.R. § 124.20(d) is inapplicable to this case.

22 Grace argues that 40 C.F.R. § 124.20(d) gave it extra

23 6/ It is respectfully suggested that, although Grace's
24 immaterial and irrelevant arguments in no way impact
25 on Grace's liability, these contentions are more appro-
26 priately addressed in regard to the penalty portion of
this case. The amount of a penalty is not addressed here.

1 time to submit the applications. 40 C.F.R. § 124.20(d) states,
2 as follows:

3 "Whenever a party or interested person has the
4 right or is required to act within a prescribed
5 period after the service of notice or other
6 paper served upon him or her by mail three days
7 shall be added to the prescribed time." 7/

8 The preamble to Section 124.20 indicates that it was
9 meant to "include methods for computing time that conform with
10 the Federal Rules of Civil Procedure". 45 Fed. Reg. No. 98,
11 May 19, 1980. The language of Section 124.20(d) is analagous
12 to Rule 6(e) of the Federal Rules:

13 Whenever a party has the right or is required
14 to do some act or take some proceedings within
15 a prescribed period after the service of a
16 notice or other paper upon him and the notice
17 or paper is served upon him by mail, 3 days
18 shall be added to the prescribed period.

19 By its terms, Rule 6(e) only applies when service is
20 by mail, and then only if a period of time and not a specific
21 deadline is imposed for some act. As such, it must be understood
22 in light of the provision of Rule 5(b) that service by mail is

23 7/ Section 124.20 applies to situations arising out of UIC
24 permitting processes under the SDWA. 40 C.F.R. § 124.1.

1 Rule 5(b) that service by mail is complete upon mailing. 8/ Thus,
2 the rationale of Rule 6(e) is to account for time required for the
3 delivery of mail and thus equalize the time for action available to
4 parties served by mail with that afforded to those parties served
5 in person. Carr v. Veterans Administration, 522 F. 2d 1355 (5th
6 Cir. 1975).

7 However, Rule 6(e) has not been routinely invoked, and it
8 is reserved strictly to cases where a rule, order or statute pro-
9 vides for a time period for filing dependent upon the date of
10 service by mail. No case has been discovered, and none has been
11 cited by Grace, which is squarely on point as to whether, when an
12 act must be performed on a date certain and the time and method of
13 service is irrelevant (as in the case herein), Rule 6(e) applies.

14 8/ Rule 5(b) of the Federal Rules of Civil Procedure states:

15 "Whenever under these rules service is required
16 or permitted to be made upon a party represented by an
17 attorney the service shall be made upon the attorney
18 unless service upon the party himself is ordered by the
19 court. Service upon the attorney or upon a party shall
20 be made by delivering a copy to him or by mailing it
21 to him at his last known address, or if no address
22 is known, by leaving it with the clerk of the court.
23 Delivery of a copy within this rule means handing it
24 to the attorney or to the party, or leaving it at his
25 office with his clerk or other person in charge thereof,
26 or if there is no one in charge thereof, leaving it in a
conspicuous place therein, or if the office is closed or
the person to be served has no office, leaving it at his
dwelling house or usual place of abode with some person
of suitable age and discretion then residing therein.
Service by mail is complete upon mailing." [Emphasis
added.]

There is no companion EPA regulation to Rule 5(b).

1 The decisions dealing with Rule 6(e) are correctly based
2 upon whether a statute, rule or order requires action within a
3 certain number of days after service of a notice by mail, or,
4 alternatively, whether the action is required from the date of some
5 other event. Rule 6(e) does not apply if a required action must be
6 effected within a period of time after the occurrence of an event
7 other than actual service by mail. See, Goff v. Pfau, 418 F. 2d
8 649 (8th Cir. 1969) (Rule 6(e) did not apply to a situation involving
9 a petition for review of an order in a bankruptcy case because
10 petition was required to be filed within 10 days of entry of order,
11 and not from service thereof; service of order by mail was
12 irrelevant); Army and Air Force Exchange v. Hanson, 250 F. Supp.
13 857 (D. Haw. 1966) (under Longshorman & Harborworkers Act, a
14 complaint must be filed within 30 days of a compensation order to
15 set it aside; even though order was required to be mailed to claimant,
16 Rule 6(e) held inapplicable because required action not dependant
17 upon service and time period did not begin to run upon date of
18 service; claimant was only 1 to 2 days late); Goldstein v. Barron,
19 414 N.E. 2d 998 (Mass. 1980) (in analogizing federal interpreta-
20 tions of Rule 6(e) to parallel state rules, Rule 6(e) held only
21 applicable where period begins to run specifically upon service of
22 a notice by mail); Clements v. Florida East Coast Railway Co., 473
23 F. 2d 668 (5th Cir. 1973) (Rule 6(e) held inapplicable where,
24 pursuant to court order, costs were required to be paid within 90
25 days of date of order and not within 90 days of service of order by
26 mail, even when costs were paid on 91st day); Carr v. Veterans

1 Administration, 522 F. 2d 1355 (5th Cir. 1975) (Rule 6(e)
2 inapplicable in a Federal Tort Claims Act case because six
3 month period to file claim begins to run, pursuant to statute,
4 from "date of mailing" of notice of denial and not with "date
5 of service" of paper or other pleading); Flint v. Howard, 464
6 F. 2d 1084 (5th Cir. 1972) (pursuant to rule, time to file a
7 motion for reconsideration begins to run upon entry of judgment,
8 not receipt of judgment by mail; therefore, Rule 6(e) inapplicable
9 even if motion is received by court one day late). Rather,
10 Rule 6(e) only applies when an action is required within a
11 certain period of time after service by mail). See, United
12 States v. 72.0 Acres of Land, 425 F. Supp 929 (E.D. Tenn. 1976)
13 (in an action for review of condemnation award, where Rule
14 53(e)(2) provides that objections thereto may be served "within
15 10 days after being served with notice" of the award, Rule 6(e)
16 applies where such notice is mailed); Raio v. American Airlines,
17 Inc., No. 83-3375 (E.D. Pa. Aug. 15, 1984) (attached) (Rule
18 6(e) applies to a requirement that a motion for review of costs
19 must be filed within 5 days of notice of bill of costs).

20 Thus, contrary to Grace's assertions, 40 C.F.R.
21 § 124.20(d) has no application in this case. First, the action
22 of Grace, i.e. submission of permit applications, was not
23 required within a period of time, but rather by a date certain.
24 Second, service of the call-in letter was irrelevant to when

1 Grace was required to act. 9/ In other words, no time period
2 began to run from the date that Grace received the call-in
3 letter.

4 Essentially, Grace, is attempting to gloss over the
5 clear language of Section 124.20(d) to escape the liability
6 which it created. 10/ The clear language of the rule, when
7 combined with the case law and the dictates contained in the
8 call-in letter itself, demonstrates the weakness of Grace's
9 argument. Rather, the facts and law support a finding that
10 Grace violated the SDWA. To find otherwise would mean that
11 specific dates certain contained in EPA notice letters are
12 mere surplusage.

13 Grace attempts to strengthen its strained interpretation
14 of Section 124.20(d) in three ways. First, Grace argues that a
15 UIC training manual developed for EPA by a contractor indicates
16 that Grace's interpretation of Section 124.20(d) is correct. 11/
17 Obviously, the statement in the manual is merely shorthand
18 and it is absurd to contend that it could somehow change the
19 clear language of Section 124.20(d). Nowhere does the manual

20 9/ Of course, this would not be the case if the call-in letter
21 had been received after the deadline cited therein. In the
22 instant case it is undisputed that the call-in letter was received
well in advance of the deadline.

23 10/ Tellingly, in all its dealing on this issue with EPA prior to
24 the filing of this suit, Grace never relied upon Section
124.20(d) until suit was filed herein.

25 11/ The manual states, under "Computation of time", "add three
26 days if notice mailed."

1 state that the actual regulation is not controlling or need not
2 be consulted in specific cases.

3 Next, Grace desperately latches on to language 12/ in
4 the call-in letter which, the defendant contends, supports its
5 argument that EPA recognized that it was creating a time "period".
6 Grace has quoted out of context. The call-in letter distinctly
7 states on two occasions on the first page, that the applications
8 are to be submitted by July 30, 1984. The language quoted by
9 Grace obviously refers to the July 30, 1984 date.

10 Finally, Grace argues that the government's answers
11 to interrogatories demonstrate that EPA intended to allow 35
12 days to submit applications, thereby indicating an intent to
13 specify a time period. Again, Grace is bootstrapping. Such an
14 interpretation is directly contrary to the terms of the call-in
15 letter. 13/

16 Alternatively, if this Court deems that Section 124.20(d)
17 applies herein, the United States contends that the applications
18 should have at least been postmarked by July 30, 1984, or received

19 12/ The letter, on the second page, states that the applications
20 must be submitted "within the time period specified in this
notice."

21 13/ The answer to interrogatory #4 to which Grace refers was an
22 attempt to answer Grace's question in the frame of reference
23 provided by the question itself. In any event, attached is the
24 affidavit of Patrick Crotty, Branch Chief, Drinking Water Branch,
25 Environmental Protection Agency, who signed the answers to to
interrogatories (Exhibit 3). Crotty indicates that he computed
the 35 day period simply by counting the number of days between
June 25, 1984 and July 30, 1984 in order to answer Grace's question.
Thus, Grace's reliance is misplaced.

26

1 by EPA by August 2, 1984, i.e. three days past the due date. As
2 indicated supra, the rationale behind the regulation is to account
3 for the time required for the delivery by mail. It was not drafted
4 to give three extra days and, on top of that, additional time for
5 delivery by mail. To do so would allow an unfair advantage to those
6 entities who quite possibly could be endangering the environment.
7 The regulation was simply not intended to be used in that fashion.

8 V. Conclusion

9 Grace concludes in its memorandum that it "would not be
10 in the fix it is today" if the government had followed the plain
11 meaning of its regulation. The United States contends that Grace
12 "would not be in the fix it is today" if it had 1) followed the
13 clear dictates of the call-in letter and filed timely permit
14 applications, or 2) when notified that its authority to inject
15 had lapsed, Grace had ceased injection activities.

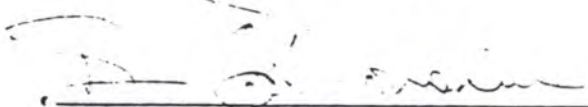
16 WHEREFORE, the United States respectfully requests
17 that Grace's summary judgment motion be denied and the United
18 States' cross-motion for partial summary judgment be granted.

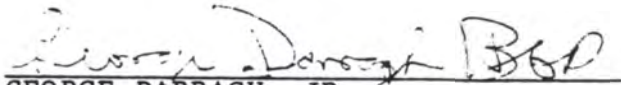
19 VI. Response To Request For Oral Argument

20 Grace has requested oral argument. Although the United
21 States will present oral argument if required to do so by this

1 Court, it is respectfully submitted that the narrow issue before
2 this Court is easily susceptible to judgment on the pleadings.

3 Respectfully submitted,

4
5 
6 BRIAN G. DONOHUE, Attorney
7 Environmental Enforcement Section
8 Land and Natural Resources Division
9 Department of Justice
10 Washington, D.C. 20530
11 (202) 633-5590

12 
13 GEORGE DARRAGH, JR.
14 Assistant United States Attorney
15 212 Federal Bldg.
16 P.O. Box 3446
17 Great Falls, MT 59403

18 - 17 -
19
20
21
22
23
24
25
26



Telexcopied Bob Coffin 8/20/84

RECEIVED

JUN 27 1984

REF: 8WM-DW

JUN 25 1984

GPC ROCKY MOUNTAIN
REGION OPERATIONS

Mr. James Johnson
Grace Petroleum Corporation
143 Union Boulevard, Suite 760
Lakewood, Colorado 80228

Dear Mr. Johnson:

You are hereby requested to submit permit applications for the following wells by July 30, 1984:

Field

Well Name

East Poplar

✓ EPU 110XD

~~Buck Elk No. 2~~

~~Huber No. 1~~

~~Huber No. 2~~

EPU 110XD

NW Poplar

✓ Goings Government

EPA is requiring permit applications for these wells for the following reasons: 1) ~~The agency has determined that salt water disposal~~ (SWD) wells pose a significant threat to Underground Sources of Drinking Water (USDW's) in this area and is therefore permitting them as soon as possible, and; 2) EPA has received assertions from the Bureau of Indian Affairs (BIA) of ground water contamination as a possible result of salt water disposal activities on the Fort Peck Indian Reservation. Since the East Poplar and Northwest Poplar fields are the area of greatest concern to the tribe and the BIA, we are requesting that permit applications for wells from these fields be submitted first.

Please complete one of the enclosed application forms for each well listed by July 30, 1984. Be sure that all the applications are complete and that all required attachments are included. Submit the completed applications to:

Chief, Drinking Water Branch
U.S. Environmental Protection Agency (8WM-DW)
1860 Lincoln Street
Denver, Colorado 80295

EXHIBIT 1

The SWD wells listed above may continue to operate under current authorization by rule until:

The effective date of a permit (activities will then be authorized by permit);

The denial of a permit (the well will no longer be authorized to inject); or

The owner or operator fails to submit the permit application within the time period specified in this notice (at which time the authorization to inject will be revoked).

I encourage you to contact either Richard Long in the EPA Denver Regional Office (Phone: (303) 844-3914) or William Engle in the EPA Montana Operations Office (Phone: (406) 449-5414) as soon as possible if you have any questions.

-- Sincerely yours,


John F. Wardell, Director,
Montana Office

Enclosures: Permit Application Forms

Exhibit 1



Telecopied Bob Coffin 8/20/84

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

1860 LINCOLN STREET

DENVER, COLORADO 80295-0699

RECEIVED

AUG 16 1984

AUG 17 1984

Ref: 8RC

Mr. James Johnson
Grace Petroleum Corporation
143 Union Boulevard, Suite 760
Lakewood, Colorado 80228

QPC ROCKY MOUNTAIN
REGION OPERATIONS

Dear Mr. Johnson: *[Signature]*

On June 25, 1984, you were requested to submit Underground Injection Control (UIC) permit applications for the following wells:

EPU 110XD;
Buck Elk No. 2;
Goings Government;
Huber No. 1;
Huber No. 2.

The date for compliance was set at July 30, 1984.

Per the prescriptions of 40 C.F.R. Section 144.25(b) our notice to you included a statement of the reasons for our decision to require you to apply for a permit; an application form; a statement setting a reasonable time within which you were to submit the applications to this office; and a statement noting that on the effective date of the UIC permit, your authorization by rule to operate the designated wells would no longer apply.

On August 6 this office received applications for the EPU 110XD, Buck Elk No. 2 and Goings Government wells along with notice that the Huber No. 1 and Huber No. 2 wells are producers and therefore not covered by the UIC program.

Your failure to respond on or before July 30, 1984 is a violation of the Safe Drinking Water Act. Also, as stated in 40 C.F.R. Section 144.21(a)(2) your authorization by rule to operate the above designated wells has expired effective July 31. Any underground injection, except as authorized by rule or permit issued under the UIC program, is prohibited. Any injection operations at the designated wells after July 30 and prior to the issuance of a UIC permit from EPA constitutes continued violation of the Safe Drinking Water Act and subjects you to the liabilities therein prescribed.

Exhibit 2

If you have any questions regarding this letter or the requirements under the UIC program, please contact Laura Clemmens at the EPA Denver Regional Office (303) 844-2731.

Sincerely,



John G. Welles
Regional Administrator

PA:
844-3895

* TmpA

* AL Smith - 4:37 PM
8-17-84

Derrick Hobson

~~BEX~~-4812

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil Action No.
	)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
_____)	

AFFIDAVIT

Patrick Crotty, of lawful age, being first duly sworn
upon oath, deposes and says:

1. I am Chief, Drinking Water Branch of Region VIII,
of the Environmental Protection Agency.

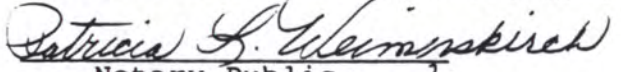
* 2. In that capacity, I signed the Plaintiff's Answers to Defendant's First Set of Interrogatories.

3. The number of days listed in answer to interrogatory #4 and Exhibit A attached thereto, i.e. 35 days, in which the defendant was to submit underground injection control program permits, was calculated by simply counting the number of days between June 25, 1984 and July 30, 1984.

IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.


Patrick Crotty

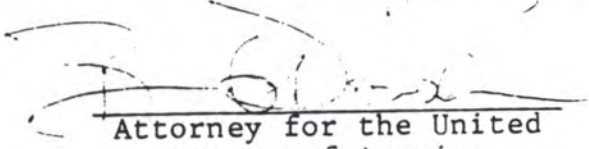
Subscribed and sworn before me this 13th day of January, 1987.


Notary Public
11800 W. 30th Place
Oakwood, Co. 80215

My commission expires November 18, 1989.

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the foregoing
to be mailed, postage prepaid, or sent by messenger, to counsel for
Grace Petroleum Corporation, on this 14th day of January, 1987.



Attorney for the United
States of America

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

->

DISPLAY SET IS 1
SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES
PAGE 1 OF 8

DOCUMENT 4

(Copr. WEST 1982. No claim to orig. US Govt Works. All Rights Reserved.)

RAIO v. AMERICAN AIRLINES, INC., D.C.Pa., 1984.

Frank RAIO, as parent and natural guardian of Shawn Raio, a minor and Thera Raio, a minor; and Frank Raio, in his own right v. AMERICAN AIRLINES, INC., Jane Doe, A Stewardess, John Doe, An Employee. Civ. A. No. 83-3375. United States District Court, E.D. Pennsylvania. Aug. 15, 1984.

Stuart Fiel, Philadelphia, Pa., for plaintiff.

Larry Silverman, Philadelphia, Pa., for defendant.

MEMORANDUM OPINION AND ORDER

WEINER, District Judge.

After a successful jury trial defense by American Airlines, Inc., ("defendant") of assault and defamation charges brought against it by the plaintiffs, the defendant filed a bill of costs pursuant to Rule 54(d) of the Federal Rules of Civil Procedure ("Fed.R.Civ.P."). A taxation conference was held on March 15, 1984, at which time the bill of costs was reviewed by the clerk of this court. On May 21, 1984, judgment for taxation of costs in the

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

->

amount of \$2,381.58 was entered for defendant by the clerk who rendered an opinion in support of his decision. Presently before this court is plaintiff's motion for review of the clerk's taxation of costs. For the reasons which follow, we affirm the taxation of costs, with the exception of \$55.65 for miscellaneous expense.

The court docket for this case maintained in the Clerk's Office details that on May 21, 1984, judgment for costs was entered in favor of defendant. On that same date, notice of judgment was mailed to the parties. The docket further details that plaintiff's motion for review of the clerk's May 21 decision was filed on June 4, 1984.

Rule 42(b) of the Local Rules of Civil Procedure provides:

(b) All bills of costs requiring taxation shall be taxed by the Clerk, subject to an appeal to the court. Any party appellant shall, within five (5) days after notice of such taxation, file a written specification of the items objected to and the grounds of objection. A copy of the specifications of objections shall be served on the opposite party or his attorney within five (5) days. An appeal shall be dismissed for non-compliance with the appeal requirements.

Thus, a party has five (5) days after notice of taxation to appeal. Rule 6(e) of the Fed.R.Civ.P., however, allows an additional three (3) days when
1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

->

DISPLAY SET IS 1

SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES

PAGE 3 OF 8

service of a notice is by mail:

(e) Additional Time After Service by Mail. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail, 3 days shall be added to the prescribed period.

Therefore, when both rules are read in conjunction with one another, a party has eight days to appeal an adverse taxation of costs decision.

In the case sub judice, notice of the decision of the clerk was mailed to the parties on May 21, 1984. Allowing eight days for the filing of an appeal as prescribed by the above rules, we determine May 29, 1984 to be the deadline for such filing. Since plaintiff did not file his motion for review until June 4, 1984, we deny plaintiff's motion as untimely.

Even if plaintiff's motion had been timely filed, we would still deny it. Taxation of costs is governed by 28 U.S.C. 1920 which provides:

A judge or clerk of any court of the United States may tax as costs the following:

(1) Fees of the clerk and marshal;

(2) Fees of the court reporter for all or any part of the stenographic transcript necessarily obtained for use in the case;

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

->

DISPLAY SET IS 1

SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES

PAGE 4 OF 8

(3) Fees and disbursements for printing and witnesses;

(4) Fees for exemplification and copies of papers necessarily obtained for use in the case;

(5) Docket fees under section 1923 of this title.

(6) Compensation of court appointed experts, compensation of interpreters, and salaries, fees, expenses, and costs of special interpretation services under section 1828 of this title.

A bill of costs shall be filed in the case and, upon allowance

state to federal court; (2) transcript fees; (3) copying costs; (4) witness fees and expenses; and (5) miscellaneous cost for certificate of notice of deposition.

The costs of removing the case from state to federal court are taxable costs. As the clerk's opinion points out, 28 U.S.C. 1920(1) does not distinguish between fees paid upon actions initially filed in the district court and those fees paid upon removal to the district court. Department of Highways v. McWilliams Dredging Co., 10 F.R.D. 107 (D.C.La.1950), aff'd, 187 F.2d 61 (5th Cir.1951). Further, we can see no reason why a plaintiff would

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

->

DISPLAY SET IS 1
SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES
PAGE 5 OF 8

be entitled to reimbursement of the filing fee in a case where the plaintiff prevails, and refuse to award the defendant the removal costs when defendant prevails. Thus, we will allow the \$109.00 claimed for removal fees.

The transcript fees incident to the taking of depositions of witnesses are taxable. Plaintiffs contend that the depositions were unnecessary since the deponents actually testified at trial. Costs for taking of depositions are taxable when the depositions appear reasonably necessary to the parties in light of a particular situation existing at the times they were taken. This rule applies even though the deposition taken may not have been used at trial. Kraeger v. University of Pittsburgh, 535 F.Supp. 233 (D.C.Pa.1982); Health-Chem Corp. v. Hyman, 523 F.Supp. 27 (D.C.N.Y.1981). Thus, we agree with the clerk's opinion and allow the transcript fees of \$290.08 as taxable costs.

The copying costs of various documents for use in the case are taxable. Plaintiff contends that because the documents in question pertained to the issue of damages which was never reached at trial, the costs of copying the documents are not taxable. 28 U.S.C. 1920(4) specifically allows for costs of "copies of papers necessarily obtained for use in the case." We determine that at the time the copies were obtained that defendant could reasonably have expected that the damage issue would be reached at trial. Therefore, the

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

->

DISPLAY SET IS 1
SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES
PAGE 6 OF 8

documents were necessarily obtained for use in the trial and the cost of \$188.85 is taxed in defendant's favor.

Witness fees and expenses are claimed by defendant for airfare, hotel and miscellaneous expenses of four witnesses who testified at trial. Plaintiffs contend that these expenses should not be allowed under the "100-mile" rule. We determine that the witness fees and expenses are taxable in favor of the defendant subject to the adjustment below.

Rule 45(e) of the Fed.R.Civ.P. /1/ provides inter alia that subpoenas compelling attendance of witnesses at trial cannot be served outside the judicial district more than 100 miles from the place of trial. As a result, many decisions of district courts have held that because witnesses cannot be compelled to travel more than 100 miles to the place of the trial, then a party who persuades them to do so by paying their transportation expenses cannot expect to have those expenses taxed as costs. Consolidated Fisheries Co. v. Fairbanks, Morse & Co., 106 F.Supp. 714, 715 (E.D.Pa.1952); Lee v. Pennsylvania R. Co., 93 F.Supp. 309 (E.D.Pa.1950). However, adherence to the "100-mile" rule is discretionary on our part where, as here, the witnesses' testimony is relevant, necessary and bears on essential issues of the case. Electronic Specialty Co. v. International Controls Corp., 47 F.R.D. 158 (D.C.N.Y.1969); Sperry Rand Corporation v. A-T-O, Inc., 58 F.R.D. 132 (E.D.Va.1972).

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

→
DISPLAY SET IS 1
SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES
PAGE 7 OF 8

1973). We therefore find that the travel and hotel expenses in question are properly taxable in favor of the defendant.

Originally, defendant claimed hotel expenses of \$87.20 each for three witnesses and \$88.20 for the other. The clerk, with whom we are in agreement, reduced the requested amounts to \$75.00 for each to conform with the provisions of 28 U.S.C. 1821(d)(3) and with 5 U.S.C. 5702(c) which provides for \$75.00 per day witness subsistence allowance in a high-cost area.

However, we disagree with the clerk as to the listed miscellaneous expense of \$55.65 (See Clerk's Taxation of Costs, Page. 4). This expense is neither explained nor supported by any documentation. We, therefore, reduce the taxable costs recoverable to the defendant by \$55.65 and allow total travel and hotel costs of \$1,781.80.

The final cost in question is a miscellaneous cost of \$6.00 for a certificate of notice of deposition. As the clerk's opinion details, under 28 U.S.C. 1920(4) such expense is incident to the deposition costs previously allowed, and, therefore, we find this expense taxable in defendant's favor.

In summary, we allow the following expenses:

ALL FOOTNOTES FOLLOW

1. Rule 45(e) provides in part that:

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search

→

DISPLAY SET IS 1
SET/1 DOCUMENT 4

SEARCH FILE IS ALLCASES
PAGE 8 OF 8

"A subpoena requiring the attendance of a witness at a hearing or trial may be served at any place within the district, or at any place without the district that is within 100 miles of the place of the hearing or trial specified in the subpoena...."

1PgBack 2PgFwd 3DocBack 4DocFwd 5PgKwdBack 6PgKwdFwd 7Full 8KWIC 9Cite 10Search



DTB:BGD:rab
90-5-1-1-2383

FILE

Washington, D.C. 20530

December 16, 1986

Jack Ramirez, Esq.
Crowley, Haughey, Hanson,
Poole & Dietrich
500 Transwestern Plaza II
P. O. Box 2529
Billings, MT 59103-2529

Re: United States v. Grace Petroleum Corporation

Dear Jack:

As we discussed, enclosed is a copy of the pertinent portions of EPA's penalty policy applicable to the above-captioned case.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Al Smith
Alan Morrissey

APPENDIX

Introduction

This appendix contains three sections. The first two sections set out guidelines for achieving the goals of the Policy on Civil Penalties. The first section focuses on achieving deterrence by assuring that the penalty first removes any economic benefit from noncompliance. Then it adds an amount to the penalty which reflects the seriousness of the violation. The second section provides adjustment factors so that both a fair and equitable penalty will result and that there will be a swift resolution of the environmental problem. The third section of the framework presents some practical advice on the use of the penalty figures generated by the policy.

The Preliminary Deterrence Amount

The Policy on Civil Penalties establishes deterrence as an important goal of penalty assessment. More specifically, it specifies that any penalty should, at a minimum, remove any significant benefits resulting from noncompliance. In addition, it should include an amount beyond removal of economic benefit to reflect the seriousness of the violation. That portion of the penalty which removes the economic benefit of noncompliance is referred to as the "benefit component;" that part of the penalty which reflects the seriousness of the violation is referred to as the "gravity component." When combined, these two components yield the "preliminary deterrence amount."

This section of the document provides guidelines for calculating the benefit component and the gravity component. It will also present and discuss a simplified version of the economic benefit calculation for use in developing quick penalty determinations. This section will also discuss the limited circumstances which justify settling for less than the benefit component. The uses of the preliminary deterrence amount will be explained in subsequent portions of this document.

I. The Benefit Component

In order to ensure that penalties remove any significant economic benefit of noncompliance, it is necessary to have reliable methods to calculate that benefit. The existence of reliable methods also strengthens the Agency's position in both litigation and negotiation. This section sets out guidelines for computing the benefit component. It first addresses costs which are delayed by noncompliance. Then it addresses costs which are avoided completely by noncompliance. It also identifies issues

to be considered when computing the benefit component for those violations where the benefit of noncompliance results from factors other than cost savings. This section concludes with a discussion of the proper use of the benefit component in developing penalty figures and in settlement negotiations.

A. Benefit from delayed costs

In many instances, the economic advantage to be derived from noncompliance is the ability to delay making the expenditures necessary to achieve compliance. For example, a facility which fails to construct required settling ponds will eventually have to spend the money needed to build those ponds in order to achieve compliance. But, by deferring these one-time nonrecurring costs until EPA or a State takes an enforcement action, that facility has achieved an economic benefit. Among the types of violations which result in savings from deferred cost are the following:

- Failure to install equipment needed to meet discharge or emission control standards.
- Failure to effect process changes needed to eliminate pollutants from products or waste streams.
- Testing violations, where the testing still must be done to demonstrate achieved compliance.
- Improper disposal, where proper disposal is still required to achieve compliance.
- Improper storage where proper storage is still required to achieve compliance.
- Failure to obtain necessary permits for discharge, where such permits would probably be granted. (While the avoided cost for many programs would be negligible, there are programs where the the permit process can be expensive).

The Agency has a substantial amount of experience under the air and water programs in calculating the economic benefit that results from delaying costs necessary to achieve compliance. This experience indicates that it is possible to estimate the benefit of delayed compliance through the use of a simple formula. Specifically, the economic benefit of delayed compliance may be estimated at: 5% per year of the delayed one-time capital cost for the period from the date the violation began until the date

compliance was or is expected to be achieved. This will be referred to as the "rule of thumb for delayed compliance" method. Each program may adopt its own "rule of thumb" if appropriate. The applicable medium-specific guidance should state what that method is.

The rule of thumb method can usually be used in making decisions on whether to develop a case or in setting a penalty target for settlement negotiations. In using this rule of thumb method in settlement negotiations, the Agency may want to make the violator fully aware that it is using an estimate and not a more precise penalty determination procedure. The decision whether to reveal this information is up to the negotiators.

The "rule of thumb" method only provides a first-cut estimate of the benefit of delayed compliance. For this reason, its use is probably inappropriate in situations where a detailed analysis of the economic effect of noncompliance is needed to support or defend the Agency's position. Accordingly, this "rule of thumb" method generally should not be used in any of the following circumstances:

- ° A hearing is likely on the amount of the penalty.
- ° The defendant wishes to negotiate over the amount of the economic benefit on the basis of factors unique to the financial condition of the company.
- ° The case development team has reason to believe it will produce a substantially inaccurate estimate; for example, where the defendant is in a highly unusual financial position, or where noncompliance has or will continue for an unusually long period.

There usually are avoided costs associated with this type of situation. Therefore, the "rule of thumb for avoided costs" should also be applied. (See pages 9-10). For most cases, both figures are needed to yield the major portion of the economic benefit component.

When the rule of thumb method is not applicable, the economic benefit of delayed compliance should be computed using the Methodology for Computing the Economic Benefit of Noncompliance. This document, which is under development, provides a method for computing the economic benefit of noncompliance based on a detailed economic analysis. The method will largely be a refined version of the method used in the previous Civil Penalty Policy issued July 8, 1980, for the Clean Water Act and Title I of the Clean Air Act. It will also be consistent with the regulations

implementing Section 120 of the Clean Air Act. A computer program will be available to the Regions to perform the analysis, together with instructions for its use. Until the Methodology is issued, the economic model contained in the July 8, 1980, Civil Penalty Policy should be used. It should be noted that the Agency recently modified this guidance to reflect changes in the tax law.

B. Benefit from avoided costs

Many kinds of violations enable a violator to permanently avoid certain costs associated with compliance.

- Cost savings for operation and maintenance of equipment that the violator failed to install.
- Failure to properly operate and maintain existing control equipment.
- Failure to employ sufficient number of adequately trained staff.
- Failure to establish or follow precautionary methods required by regulations or permits.
- Improper storage, where commercial storage is reasonably available.
- Improper disposal, where redisposal or cleanup is not possible.
- Process, operational, or maintenance savings from removing pollution equipment.
- Failure to conduct necessary testing.

As with the benefit from delayed costs, the benefit component for avoided costs may be estimated by another "rule of thumb" method. Since these costs will never be incurred, the estimate is the expenses avoided until the date compliance is achieved less any tax savings. The use of this "rule of thumb" method is subject to the same limitations as those discussed in the preceding section.

Where the "rule of thumb for avoided costs" method cannot be used, the benefit from avoided costs must be computed using the Methodology for Computing the Economic Benefit of Noncompliance. Again, until the Methodology is issued, the method contained in the July 8, 1980, Civil Penalty Policy should be used as modified to reflect recent changes in the tax law.

C. Benefit from competitive advantage

For most violations, removing the savings which accrue from noncompliance will usually be sufficient to remove the competitive advantage the violator clearly has gained from noncompliance. But there are some situations in which noncompliance allows the violator to provide goods or services which are not available elsewhere or are more attractive to the consumer. Examples of such violations include:

- Selling banned products.
- Selling products for banned uses.
- Selling products without required labelling or warnings.
- Removing or altering pollution control equipment for a fee, (e.g., tampering with automobile emission controls.)
- Selling products without required regulatory clearance, (e.g., pesticide registration or premanufacture notice under TSCA.)

To adequately remove the economic incentive for such violations, it is helpful to estimate the net profits made from the improper transactions (i.e. those transactions which would not have occurred if the party had complied). The case development team is responsible for identifying violations in which this element of economic benefit clearly is present and significant. This calculation may be substantially different depending on the type of violation. Consequently the program-specific policies should contain guidance on identifying these types of violations and estimating these profits. In formulating that guidance, the following principles should be followed:

- The amount of the profit should be based on the best information available concerning the number of transactions resulting from noncompliance.
- Where available, information about the average profit per transaction may be used. In some cases, this may be available from the rulemaking record of the provision violated.
- The benefit derived should be adjusted to reflect the present value of net profits derived in the past.

It is recognized that the methods developed for estimating the profit from those transactions will sometimes rely substantially on expertise rather than verifiable data. Nevertheless, the programs should make all reasonable efforts to ensure that the estimates developed are defensible. The programs are encouraged to work with the Office of Policy, Planning and Evaluation to ensure that the methods developed are consistent with the forthcoming Methodology for Computing the Economic Benefit of Noncompliance and with methods developed by other programs. The programs should also ensure that sufficient contract funds are available to obtain expert advice in this area as needed to support penalty development, negotiation and trial of these kinds of cases.

D. Settling cases for an amount less than the economic benefit

As noted above, settling for an amount which does not remove the economic benefit of noncompliance can encourage people to wait until EPA or the State begins an enforcement action before complying. For this reason, it is general Agency policy not to settle for less than this amount. There are three general areas where settling for less than economic benefit may be appropriate. But in any individual case where the Agency decides to settle for less than economic benefit, the case development team must detail those reasons in the case file and in any memoranda accompanying the settlement.

1. Benefit component involves insignificant amount

It is clear that assessing the benefit component and negotiating over it will often represent a substantial commitment of resources. Such a commitment of resources may not be warranted in cases where the magnitude of the benefit component is not likely to be significant, (e.g. not likely to have a substantial impact on the violator's competitive positions). For this reason, the case development team has the discretion not to seek the benefit component where it appears that the amount of that component is likely to be less than \$10,000. (A program may determine that other cut-off points are more reasonable based on the likelihood that retaining the benefit could encourage noncomplying behavior.) In exercising that discretion, the case development team should consider the following factors:

- Impact on violator: The likelihood that assessing the benefit component as part of the penalty will have a noticeable effect on the violator's competitive position or overall profits. If no such effect appears likely, the benefit component should probably not be pursued.
- The size of the gravity component: If the gravity component is relatively small, it may not provide a sufficient deterrent, by

itself, to achieve the goals of this policy.

- The certainty of the size of the benefit component: If the economic benefit is quite well defined, it is not likely to require as much effort to seek to include it in the penalty assessment. Such circumstances also increase the likelihood that the economic benefit was a substantial motivation for the noncompliance. This would make the inclusion of the benefit component more necessary to achieve specific deterrence.

It may be appropriate not to seek the benefit component in an entire class of violation. In that situation, the rationale behind that approach should be clearly stated in the appropriate medium-specific policy. For example, the most appropriate way to handle a small non-recurring operation and maintenance violation may be a small penalty. Obviously it makes little sense to assess in detail the economic benefit for each individual violation because the benefit is likely to be so small. The medium-specific policy would state this as the rationale.

2. Compelling public concerns

The Agency recognizes that there may be some instances where there are compelling public concerns that would not be served by taking a case to trial. In such instances, it may become necessary to consider settling a case for less than the benefit component. This may be done only if it is absolutely necessary to preserve the countervailing public interests. Such settlements might be appropriate where the following circumstances occur:

- There is a very substantial risk of creating precedent which will have a significant adverse effect upon the Agency's ability to enforce the law or clean up pollution if the case is taken to trial.
- Settlement will avoid or terminate an imminent risk to human health or the environment. This is an adequate justification only if injunctive relief is unavailable for some reason, and if settlement on remedial responsibilities could not be reached independent of any settlement of civil penalty liability.
- Removal of the economic benefit would result in plant closings, bankruptcy, or other extreme financial burden, and there is an important public interest in allowing the firm to continue in business.

Alternative payment plans should be fully explored before resorting to this option. Otherwise, the Agency will give the perception that shirking one's environmental responsibilities is a way to keep a failing enterprise afloat. This exemption does not apply to situations where the plant was likely to close anyway, or where there is a likelihood of continued harmful noncompliance.

3. Litigation practicalities

The Agency realizes that in certain cases, it is highly unlikely the EPA will be able to recover the economic benefit in litigation. This may be due to applicable precedent, competing public interest considerations, or the specific facts, equities, or evidentiary issues pertaining to a particular case. In such a situation it is unrealistic to expect EPA to obtain a penalty in litigation which would remove the economic benefit. The case development team then may pursue a lower penalty amount.

II. The Gravity Component

As noted above, the Policy on Civil Penalties specifies that a penalty, to achieve deterrence, should not only remove any economic benefit of noncompliance, but also include an amount reflecting the seriousness of the violation. This latter amount is referred to as the "gravity component." The purpose of this section of the document is to establish an approach to quantifying the gravity component. This approach can encompass the differences between programs and still provide the basis for a sound consistent treatment of this issue.

A. Quantifying the gravity of a violation

Assigning a dollar figure to represent the gravity of a violation is an essentially subjective process. Nevertheless, the relative seriousness of different violations can be fairly accurately determined in most cases. This can be accomplished by reference to the goals of the specific regulatory scheme and the facts of each particular violation. Thus, linking the dollar amount of the gravity component to these objective factors is a useful way of insuring that violations of approximately equal seriousness are treated the same way.

Such a linkage promotes consistency. This consistency strengthens the Agency's position both in negotiation and before a trier of fact. This approach consequently also encourages swift resolution of environmental problems.

Each program must develop a system for quantifying the gravity of violations of the laws and regulations it administers.

This development must occur within the context of the penalty amounts authorized by law for that program. That system must be based, whenever possible, on objective indicators of the seriousness of the violation. Examples of such indicators are given below. The seriousness of the violation should be based primarily on: 1) the risk of harm inherent in the violation at the time it was committed and 2) the actual harm that resulted from the violation. In some cases, the seriousness of the risk of harm will exceed that of the actual harm. Thus, each system should provide enough flexibility to allow EPA to consider both factors in assessing penalties.

Each system must also be designed to minimize the possibility that two persons applying the system to the same set of facts would come up with substantially different numbers. Thus, to the extent the system depends on categorizing events, those categories must be clearly defined. That way there is little possibility for argument over the category in which a violation belongs. In addition, the categorization of the events relevant to the penalty decision should be noted in the penalty development portion of the case file.

B. Gravity Factors

In quantifying the gravity of a violation, a program-specific policy should rank different types of violations according to the seriousness of the act. The following is a suggested approach to ranking the seriousness of violations. In this approach to ranking, the following factors should be considered:

- Actual or possible harm: This factor focuses on whether (and to what extent) the activity of the defendant actually resulted or was likely to result in an unpermitted discharge or exposure.
- Importance to the regulatory scheme: This factor focuses on the importance of the requirement to achieving the goal of the statute or regulation. For example, if labelling is the only method used to prevent dangerous exposure to a chemical, then failure to label should result in a relatively high penalty. By contrast, a warning sign that was visibly posted but was smaller than the required size would not normally be considered as serious.
- Availability of data from other sources: The violation of any recordkeeping or reporting requirement is a very serious

matter. But if the involved requirement is the only source of information, the violation is far more serious. By contrast, if the Agency has another readily available and cheap source for the necessary information, a smaller penalty may be appropriate. (E.g. a customer of the violator purchased all the violator's illegally produced substance. Even though the violator does not have the required records, the customer does.)

- Size of violator: In some cases, the gravity component should be increased where it is clear that the resultant penalty will otherwise have little impact on the violator in light of the risk of harm posed by the violation. This factor is only relevant to the extent it is not taken into account by other factors.

The assessment of the first gravity factor listed above, risk or harm arising from a violation, is a complex matter. For purposes of ranking violations according to seriousness, it is possible to distinguish violations within a category on the basis of certain considerations, including the following:

- Amount of pollutant: Adjustments for the concentration of the pollutant may be appropriate, depending on the regulatory scheme and the characteristics of the pollutant. Such adjustments need not be linear, especially if the pollutant can be harmful at low concentrations.
- Toxicity of the pollutant: Violations involving highly toxic pollutants are more serious and should result in relatively larger penalties.
- Sensitivity of the environment: This factor focuses on the location where the violation was committed. For example, improper discharge into waters near a drinking water intake or a recreational beach is usually more serious than discharge into waters not near any such use.
- The length of time a violation continues: In most circumstances, the longer a violation continues uncorrected, the greater is the risk of harm.

Although each program-specific policy should address each of the factors listed above, or determine why it is not relevant, the factors listed above are not meant to be exhaustive. The programs should make every effort to identify all factors relevant to assessing the seriousness of any violation. The programs should then systematically prescribe a dollar amount to yield a gravity component for the penalty. The program-specific policies may prescribe a dollar range for a certain category of violation rather than a precise dollar amount within that range based on the specific facts of an individual case.

The process by which the gravity component was computed must be memorialized in the case file. Combining the benefit component with the gravity component yields the preliminary deterrence amount.

In some classes of cases, the normal gravity calculation may be insufficient to effect general deterrence. This could happen if there was extensive noncompliance with certain regulatory programs in specific areas of the United States. This would demonstrate that the normal penalty assessments had not been achieving general deterrence. The medium specific policies should address this issue. One possible approach would be to direct the case development team to consider increasing the gravity component within a certain range to achieve general deterrence. These extra assessments should be consistent with the other goals of this policy.

Initial and Adjusted Penalty Target Figure

The second goal of the Policy on Civil Penalties is the equitable treatment of the regulated community. One important mechanism for promoting equitable treatment is to include the benefit component discussed above in a civil penalty assessment. This approach would prevent violators from benefitting economically from their noncompliance relative to parties which have complied with environmental requirements.

In addition, in order to promote equity, the system for penalty assessment must have enough flexibility to account for the unique facts of each case. Yet it still must produce enough consistent results to treat similarly-situated violators similarly. This is accomplished by identifying many of the legitimate differences between cases and providing guidelines for how to adjust the preliminary deterrence amount when those facts occur. The application of these adjustments to the preliminary deterrence amount prior to the commencement of negotiation yields the initial penalty target figure. During the course of negotiation, the case development team may further adjust this figure to yield the adjusted penalty target figure.

Nevertheless, it should be noted that equitable treatment is a two-edged sword. While it means that a particular violator will receive no higher penalty than a similarly situated violator, it also means that the penalty will be no lower.

I. Flexibility-Adjustment Factors

The purpose of this section of the document is to establish additional adjustment factors to promote flexibility and to identify management techniques that will promote consistency. This section sets out guidelines for adjusting penalties to account for some factors that frequently distinguish different cases. Those factors are: degree of willfulness and/or negligence, degree of cooperation/noncooperation, history of noncompliance, ability to pay, and other unique factors. Unless otherwise specified, these adjustment factors will apply only to the gravity component and not to the economic benefit component. Violators bear the burden of justifying mitigation adjustments they propose based on these factors.

Within each factor there are three suggested ranges of adjustment. The actual ranges for each medium-specific policy will be determined by those developing the policy. The actual ranges may differ from these suggested ranges based upon program specific needs. The first, typically a 0-20% adjustment of the gravity component, is within the absolute discretion of the case development team.^{1/} The second, typically a 21-30% adjustment, is only appropriate in unusual circumstances. The third range, typically beyond 30% adjustment, is only appropriate in extraordinary circumstances. Adjustments in the latter two ranges, unusual and extraordinary circumstances, will be subject to scrutiny in any performance audit. The case development team may wish to reevaluate these adjustment factors as the negotiations progress. This allows the team to reconsider evidence used as a basis for the penalty in light of new information.

Where the Region develops the penalty figure, the application of adjustment factors will be part of the planned Regional audits. Headquarters will be responsible for proper application of these factors in nationally-managed cases. A detailed discussion of these factors follows.

A. Degree of Willfulness and/or Negligence

Although most of the statutes which EPA administers are strict liability statutes, this does not render the violator's

^{1/} Absolute discretion means that the case development team may make penalty development decisions independent of EPA Headquarters. Nevertheless it is understood that in all judicial matters, the Department of Justice can still review these determinations if they so desire. Of course the authority to exercise the Agency's concurrence in final settlements is covered by the applicable delegations.

willfulness and/or negligence irrelevant. Knowing or willful violations can give rise to criminal liability, and the lack of any culpability may, depending upon the particular program, indicate that no penalty action is appropriate. Between these two extremes, the willfulness and/or negligence of the violator should be reflected in the amount of the penalty.

In assessing the degree of willfulness and/or negligence, all of the following points should be considered in most cases:

- How much control the violator had over the events constituting the violation.
- The foreseeability of the events constituting the violation.
- Whether the violator took reasonable precautions against the events constituting the violation.
- Whether the violator knew or should have known of the hazards associated with the conduct.
- The level of sophistication within the industry in dealing with compliance issues and/or the accessibility of appropriate control technology (if this information is readily available). This should be balanced against the technology forcing nature of the statute, where applicable.
- Whether the violator in fact knew of the legal requirement which was violated.

It should be noted that this last point, lack of knowledge of the legal requirement, should never be used as a basis to reduce the penalty. To do so would encourage ignorance of the law. Rather, knowledge of the law should serve only to enhance the penalty.

The amount of control which the violator had over how quickly the violation was remedied is also relevant in certain circumstances. Specifically, if correction of the environmental problem was delayed by factors which the violator can clearly show were not reasonably foreseeable and out of its control, the penalty may be reduced.

The suggested approach for this factor is for the case development team to have absolute discretion to adjust the penalty up or down by 20% of the gravity component. Adjustments in the ± 21-30% range should only be made in unusual circumstances.

Adjustments for this factor beyond $\pm 30\%$ should be made only in extraordinary circumstances. Adjustments in the unusual or extraordinary circumstance range will be subject to scrutiny in any audit of performance.

B. Degree of Cooperation/Noncooperation

The degree of cooperation or noncooperation of the violator in remedying the violation is an appropriate factor to consider in adjusting the penalty. Such adjustments are mandated by both the goals of equitable treatment and swift resolution of environmental problems. There are three areas where this factor is relevant.

1. Prompt reporting of noncompliance

Cooperation can be manifested by the violator promptly reporting its noncompliance. Assuming such self-reporting is not required by law, such behavior should result in the mitigation of any penalty.

The suggested ranges of adjustment are as follows. The case development team has absolute discretion on any adjustments up to $\pm 10\%$ of the gravity component for cooperation/noncooperation. Adjustments can be made up to $\pm 20\%$ of the gravity component, but only in unusual circumstances. In extraordinary circumstances, such as self reporting of a TSCA premanufacture notice violation, the case development team may adjust the penalty beyond the $\pm 20\%$ factor. Adjustments in the unusual or extraordinary circumstances ranges will be subject to scrutiny in any performance audit.

2. Prompt correction of environmental problems

The Agency should provide incentives for the violator to commit to correcting the problem promptly. This correction must take place before litigation is begun, except in extraordinary circumstances.^{2/} But since these incentives must be consistent with deterrence, they must be used judiciously.

^{2/} For the purposes of this document, litigation is deemed to begin:

- for administrative actions - when the respondent files a response to an administrative complaint or when the time to file expires or
- for judicial actions - when an Assistant United States Attorney files a complaint in court.

The circumstances under which the penalty is reduced depend on the type of violation involved and the source's response to the problem. A straightforward reduction in the amount of the gravity component of the penalty is most appropriate in those cases where either: 1) the environmental problem is actually corrected prior to initiating litigation, or 2) ideally, immediately upon discovery of the violation. Under this approach, the reduction typically should be a substantial portion of the unadjusted gravity component.

In general, the earlier the violator instituted corrective action after discovery of the violation and the more complete the corrective action instituted, the larger the penalty reduction EPA will consider. At the discretion of the case development team, the unadjusted gravity component may be reduced up to 50%. This would depend on how long the environmental problem continued before correction and the amount of any environmental damage. Adjustments greater than 50% are permitted, but will be the subject of close scrutiny in auditing performance.

It should be noted that in some instances, the violator will take all necessary steps toward correcting the problem but may refuse to reach any agreement on penalties. Similarly, a violator may take some steps to ameliorate the problem, but choose to litigate over what constitutes compliance. In such cases, the gravity component of the penalty may be reduced up to 25% at the discretion of the case development team. This smaller adjustment still recognizes the efforts made to correct the environmental problem, but the benefit to the source is not as great as if a complete settlement is reached. Adjustments greater than 25% are permitted, but will be the subject of close scrutiny in auditing performance.

In all instances, the facts and rationale justifying the penalty reduction must be recorded in the case file and included in any memoranda accompanying settlement.

3. Delaying compliance

Swift resolution of environmental problems will be encouraged if the violator clearly sees that it will be financially disadvantageous for the violator to litigate without remedying noncompliance. The settlement terms described in the preceding section are only available to parties who take steps to correct a problem prior to initiation of litigation. To some extent, this is an incentive to comply as soon as possible. Nevertheless, once litigation has commenced, it should be clear that the defendant litigates at its own risk.

In addition, the methods for computing the benefit component and the gravity component are both structured so that the penalty target increases the longer the violation remains uncorrected. The larger penalty for longer noncompliance is systematically linked to the benefits accruing to the violator and to the continuing risk to human health and the environment. This occurs even after litigation has commenced. This linkage will put the Agency in a strong position to convince the trier of fact to impose such larger penalties. For these reasons, the Policy on Civil Penalties provides substantial disincentives to litigating without complying.

C. History of noncompliance

Where a party has violated a similar environmental requirement before, this is usually clear evidence that the party was not deterred by the Agency's previous enforcement response. Unless the previous violation was caused by factors entirely out of the control of the violator, this is an indication that the penalty should be adjusted upwards.

In deciding how large these adjustments should be, the case development team should consider the following points:

- How similar the previous violation was.
- How recent the previous violation was.
- The number of previous violations.
- Violator's response to previous violation(s) in regard to correction of the previous problem.

Detailed criteria for what constitutes a "similar violation" should be contained in each program-specific policy. Nevertheless a violation should generally be considered "similar" if the Agency's previous enforcement response should have alerted the party to a particular type of compliance problem. Some facts that indicate a "similar violation" was committed are as follows:

- The same permit was violated.
- The same substance was involved.
- The same process points were the source of the violation.
- The same statutory or regulatory provision was violated.

- A similar act or omission (e.g. the failure to properly store chemicals) was the basis of the violation.

For purposes of this section, a "prior violation" includes any act or omission for which a formal enforcement response has occurred (e.g. notice of violation, warning letter, complaint, consent decree, consent agreement, or final order). It also includes any act or omission for which the violator has previously been given written notification, however informal, that the Agency believes a violation exists.

In the case of large corporations with many divisions or wholly-owned subsidiaries, it is sometimes difficult to determine whether a previous instance of noncompliance should trigger the adjustments described in this section. New ownership often raises similar problems. In making this determination, the case development team should ascertain who in the organization had control and oversight responsibility for the conduct resulting in the violation. In some situations the same persons or the same organizational unit had or reasonably should have had control or oversight responsibility for violative conduct. In those cases, the violation will be considered part of the compliance history of that regulated party.

In general, the case development team should begin with the assumption that if the same corporation was involved, the adjustments for history of noncompliance should apply. In addition, the case development team should be wary of a party changing operators or shifting responsibility for compliance to different groups as a way of avoiding increased penalties. The Agency may find a consistent pattern of noncompliance by many divisions or subsidiaries of a corporation even though the facilities are at different geographic locations. This often reflects, at best, a corporate-wide indifference to environmental protection. Consequently, the adjustment for history of noncompliance should probably apply unless the violator can demonstrate that the other violating corporate facilities are independent.

The following are the Framework's suggested adjustment ranges. If the pattern is one of "dissimilar" violations, relatively few in number, the case development team has absolute discretion to raise the penalty amount by 35%. For a relatively large number of dissimilar violations, the gravity component can be increased up to 70%. If the pattern is one of "similar" violations, the case development team has absolute discretion to raise the penalty amount up to 35% for the first repeat violation, and up to 70% for further repeated similar violations. The case development team may make higher adjustments in extraordinary circumstances, but such adjustments will be subject to scrutiny in any performance audit.

D. Ability to pay

The Agency will generally not request penalties that are clearly beyond the means of the violator. Therefore EPA should consider the ability to pay a penalty in arriving at a specific final penalty assessment. At the same time, it is important that the regulated community not see the violation of environmental requirements as a way of aiding a financially troubled business. EPA reserves the option, in appropriate circumstances, of seeking a penalty that might put a company out of business.

For example, it is unlikely that EPA would reduce a penalty where a facility refuses to correct a serious violation. The same could be said for a violator with a long history of previous violations. That long history would demonstrate that less severe measures are ineffective.

The financial ability adjustment will normally require a significant amount of financial information specific to the violator. If this information is available prior to commencement of negotiations, it should be assessed as part of the initial penalty target figure. If it is not available, the case development team should assess this factor after commencement of negotiation with the source.

The burden to demonstrate inability to pay, as with the burden of demonstrating the presence of any mitigating circumstances, rests on the defendant. If the violator fails to provide sufficient information, then the case development team should disregard this factor in adjusting the penalty. The National Enforcement Investigations Center (NEIC) has developed the capability to assist the Regions in determining a firm's ability to pay. Further information on this system will be made available shortly under separate cover.

When it is determined that a violator cannot afford the penalty prescribed by this policy, the following options should be considered:

- Consider a delayed payment schedule: Such a schedule might even be contingent upon an increase in sales or some other indicator of improved business. This approach is a real burden on the Agency and should only be considered on rare occasions.
- Consider non-monetary alternatives, such as public service activities: For example, in the mobile source program, fleet operators who tampered with pollution control devices

on their vehicles agreed to display anti-tampering ads on their vehicles. Similar solutions may be possible in other industries.

- Consider straight penalty reductions as a last recourse: If this approach is necessary, the reasons for the case development team's conclusion as to the size of the necessary reduction should be made a part of the formal enforcement file and the memorandum accompanying the settlement. 3/
- Consider joinder of the violator's individual owners: This is appropriate if joinder is legally possible and justified under the circumstances.

Regardless of the Agency's determination of an appropriate penalty amount to pursue based on ability to pay considerations, the violator is still expected to comply with the law.

E. Other unique factors

Individual programs may be able to predict other factors that can be expected to affect the appropriate penalty amount. Those factors should be identified and guidelines for their use set out in the program-specific policies. Nevertheless, each policy should allow for adjustment for unanticipated factors which might affect the penalty in each case.

It is suggested that there be absolute discretion to adjust penalties up or down by 10% of the gravity component for such reasons. Adjustments beyond the absolute discretion range will be subject to scrutiny during audits. In addition, they will primarily be allowed for compelling public policy concerns or the strengths and equities of the case. The rationale for the reduction must be expressed in writing in the case file and in any memoranda accompanying the settlement. See the discussion on pages 12 and 13 for further specifics on adjustments appropriate on the basis of either compelling public policy concerns or the strengths and equities of the case.

II. Alternative Payments

In the past, the Agency has accepted various environmentally beneficial expenditures in settlement of a case and chosen not to

3/ If a firm fails to pay the agreed-to penalty in an administrative or judicial final order, then the Agency must follow the Federal Claims Collection Act procedures for obtaining the penalty amount.

pursue more severe penalties. In general, the regulated community has been very receptive to this practice. In many cases, violators have found "alternative payments" to be more attractive than a traditional penalty. Many useful projects have been accomplished with such funds. But in some instances, EPA has accepted for credit certain expenditures whose actual environmental benefit has been somewhat speculative.

The Agency believes that these alternative payment projects should be reserved as an incentive to settlement before litigation. For this reason, such arrangements will be allowed only in prelitigation agreements except in extraordinary circumstances.

In addition, the acceptance of alternative payments for environmentally beneficial expenditures is subject to certain conditions. The Agency has designed these conditions to prevent the abuse of this procedure. Most of the conditions below applied in the past, but some are new. All of these conditions must be met before alternative payments may be accepted:^{4/}

- No credits can be given for activities that currently are or will be required under current law or are likely to be required under existing statutory authority in the foreseeable future (e.g., through upcoming rulemaking).
- The majority of the project's environmental benefit should accrue to the general public rather than to the source or any particular governmental unit.
- The project cannot be something which the violator could reasonably be expected to do as part of sound business practices.

^{4/} In extraordinary circumstances, the Agency may choose not to pursue higher penalties for "alternative" work done prior to commencement of negotiations. For example, a firm may recall a product found to be in violation despite the fact that such recall is not required. In order for EPA to forgo seeking higher penalties, the violator must prove that it has met the other conditions herein stated. If the violator fails to prove this in a satisfactory manner, the case development team has the discretion to completely disallow the credit project. As with all alternative projects, the case development team has the discretion to still pursue some penalties in settlement.

- EPA must not lower the amount it decides to accept in penalties by more than the after-tax amount the violator spends on the project.^{5/}

In all cases where alternative payments are allowed, the case file should contain documentation showing that each of the conditions listed above have been met in that particular case. In addition when considering penalty credits, Agency negotiators should take into account the following points:

- The project should not require a large amount of EPA oversight for its completion. In general the less oversight the proposed credit project would require from EPA to ensure proper completion, the more receptive EPA can be toward accepting the project in settlement.
- The project should receive stronger consideration if it will result in the abatement of existing pollution, ameliorate the pollution problem that is the basis of the government's claim and involve an activity that could be ordered by a judge as equitable relief.
- The project should receive stronger consideration if undertaken at the facility where the violation took place.
- The company should agree that any publicity it disseminates regarding its funding of the project must include a statement that such funding is in settlement of a lawsuit brought by EPA or the State.

5/ This limitation does not apply to public awareness activities such as those employed for fuel switching and tampering violations under the Clean Air Act. The purpose of the limitation is to preserve the deterrent value of the settlement. But these violations are often the result of public misconceptions about the economic value of these violations. Consequently, the public awareness activities can be effective in preventing others from violating the law. Thus, the high general deterrent value of public awareness activities in these circumstances obviates the need for the one-to-one requirement on penalty credits.

Each alternative payment plan must entail an identified project to be completely performed by the defendant. Under the plan, EPA must not hold any funds which are to be spent at EPA's discretion unless the relevant statute specifically provides that authority. The final order, decree or judgment should state what financial penalty the violator is actually paying and describe as precisely as possible the credit project the violator is expected to perform.

III. Promoting Consistency

Treating similar situations in a similar fashion is central to the credibility of EPA's enforcement effort and to the success of achieving the goal of equitable treatment. This document has established several mechanisms to promote such consistency. Yet it still leaves enough flexibility for settlement and for tailoring the penalty to particular circumstances. Perhaps the most important mechanisms for achieving consistency are the systematic methods for calculating the benefit component and gravity component of the penalty. Together, they add up to the preliminary deterrence amount. The document also sets out guidance on uniform approaches for applying adjustment factors to arrive at an initial penalty target prior to beginning settlement negotiations or an adjusted penalty target after negotiations have begun.

Nevertheless, if the Agency is to promote consistency, it is essential that each case file contain a complete description of how each penalty was developed. This description should cover how the preliminary deterrence amount was calculated and any adjustments made to the preliminary deterrence amount. It should also describe the facts and reasons which support such adjustment. Only through such complete documentation can enforcement attorney program staff and their managers learn from each others' experience and promote the fairness required by the Policy on Civil Penalties.

To facilitate the use of this information, Office of Legal and Enforcement Policy will pursue integration of penalty information from judicial enforcement actions into a computer system. Both Headquarters and all Regional offices will have access to the system through terminals. This would make it possible for the Regions to compare the handling of their cases with those of other Regions. It could potentially allow the Regions, as well as Headquarters, to learn from each others' experience and to identify problem areas where policy change or further guidance is needed.

Use of Penalty Figure in Settlement Discussions

The Policy and Framework do not seek to constrain negotiatio
Their goal is to set settlement target figures for the internal
use of Agency negotiators. Consequently, the penalty figures
under negotiation do not necessarily have to be as low as the
internal target figures. Nevertheless, the final settlement
figures should go no lower than the internal target figures unle
either: 1) the medium-specific penalty policy so provides or
2) the reasons for the deviation are properly documented.

Donohue, B

12/16/86

DEC 16 1986

LOUANE

BY *Marlyn Blades*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)

Plaintiff,)

vs.)

GRACE PETROLEUM CORPORATION,)

Defendant.)

NO. CV-86-003-GF

MEMORANDUM AND ORDER

Defendant Grace Petroleum Corporation moves the court to suspend the revised scheduling order entered, at that entity's request, on September 4, 1986. Grace Petroleum asks the court to suspend discovery until such time as Grace's pending motion for summary judgment is addressed by the court. The plaintiff United States acquiesces in Grace's request.

While the court is amenable to the request for suspension, it is disturbed by Grace's allusion to the fact that extensive discovery remains to be accomplished in the event summary judgment is ultimately denied.

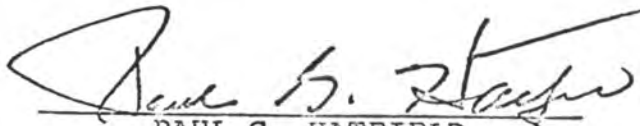
Review of the record reveals that a scheduling order was

8-5-1-2383
44 DEC 16 1986
RECORDED

initially entered in this matter on April 23, 1986, which set a discovery deadline of September 30, 1986. By order of September 4, 1986, that deadline was extended to January 30, 1987. Under Grace's present motion, the discovery deadline will be suspended until resolution of the pending motion for summary judgment. The court comments upon the procedural history of this case in order to apprise the parties of the court's perception that discovery in this matter should be substantially completed. Upon resolution of the pending motion for summary judgment, the court will set a final pretrial schedule. Given the history of the case, the court will expect all remaining discovery to be accomplished on an expedited basis. Accordingly,

IT IS ORDERED that the discovery deadline established in this matter, pursuant to order entered September 4, 1986, is suspended until disposition of the pending motion for summary judgment, at which time the court shall set a final pretrial schedule.

DATED this 16 day of December, 1986.


PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE



DTB:BGD:rab
90-5-1-1-2383

FILE

Washington, D.C. 20530

December 15, 1986

Clerk
United States District Court
District of Montana
Great Falls Division
P. O. Box 2186
Great Falls, Montana 59403

Re: United States v. Grace Petroleum Corp.,
Civil No. CV. 86-003-GF

Dear Sir/Madam:

Enclosed for filing is the original and (two copies) of the United States' motion for an extension of time to respond to the defendant's summary judgment motion.

Thank you for your assistance.

Sincerely,

Assistant Attorney General
Land and Natural Resources Division

By: 

Brian G. Donohue, Attorney
Environmental Enforcement Section

cc: Jack Ramirez
George Darragh, Jr.
Al Smith
Alan Morrissey

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil Action No.
	)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	
)	

UNITED STATES OF AMERICA'S MOTION FOR EXTENSION
OF TIME TO RESPOND TO MOTION FOR SUMMARY JUDGMENT

The plaintiff, United States of America, by undersigned counsel, timely moves this Court for an order granting an extension of time in which to respond to the motion of the defendant, Grace Petroleum Corporation (Grace), for summary judgment. Grace's memorandum in support of said motion was served on the plaintiff by mail on December 8, 1986. The United States requests an

extension until January 15, 1987 in which to serve its response to said motion. The reasons for said request, are as follows:

1. Plaintiff's response to the defendant's motion for summary judgment is due to be filed on December 18, 1986.

2. Due to the press of other business by undersigned counsel, the Christmas holidays, and the fact that undersigned counsel's office is scheduled to be relocated, the plaintiff requires an extension in which to complete its response.

3. The plaintiff agreed not to object to the defendant's recent request for an extension of time in which to file its supporting memorandum to the summary judgment motion.

4. Undersigned counsel has contacted lead counsel representing the defendant, Jack Ramirez, Esquire, and is authorized by him to represent that opposing counsel has no objection to the instant request for an extension of time. The motion is otherwise based on good cause, as reflected in the attached affidavit of counsel.

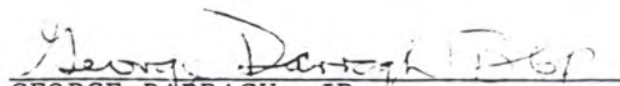
A proposed order is attached hereto.


Dated this day of December, 1986.

Respectfully submitted,

BYRON DUNBAR
United States Attorney
District of Montana

By:


GEORGE DARRAGH, JR.
Assistant United States Attorney
212 Federal Building
P.O. Box 3446
Great Falls, MT 59403
(406) 761-7715


BRIAN DONOHUE
Environmental Enforcement Section
Land and Natural Resources Division
Department of Justice
10th & Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 633-5590

OF COUNSEL:

ALFRED C. SMITH
United States Environmental
Protection Agency
Region VIII
One Denver Place - Suite 1300
999 18th Street
Denver, Colorado 80202-2413

ALAN MORRISSEY
United States Environmental
Protection Agency
401 M Street, S.W.
Washington, DC 20530

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil Action No.
	)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	
)	

AFFIDAVIT

Brian G. Donohue, of lawful age, being first duly sworn
upon oath, deposes and says:

1. This is a civil action commenced by the United States
of America on behalf of the Environmental Protection Agency.

2. Undersigned counsel is the lead trial attorney for the United States in this matter.

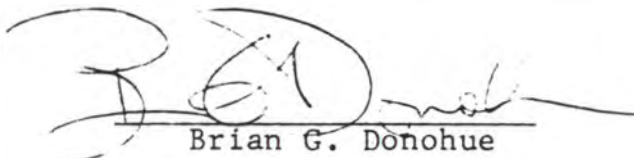
3. On December 8, 1986, the defendant, Grace Petroleum Corporation, served the memorandum in support of its summary judgment motion on the United States.

4. The response to same, under local Court rules is due on December 18, 1986.

5. The United States requires until January 15, 1987 in which to serve its response thereto due to the press of other business; the Christmas holidays; and the fact that undersigned counsel's office is scheduled to be relocated.

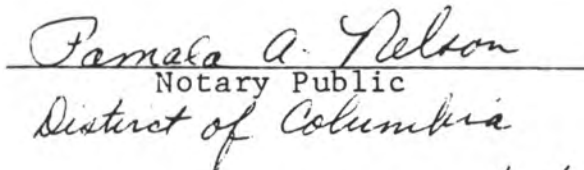
6. Lead counsel representing the defendant, Jack Ramirez, Esquire, has been contacted regarding this motion to extend time and has authorized me to represent that he has no objection to the motion.

IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.


Brian G. Donohue

Subscribed and sworn to before me this 15th day of December, 1986.

(Seal)


Notary Public
District of Columbia

My Commission expires 1/31/91

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused, on this 15th day of December, 1986, to be delivered by mail, postage prepaid, to Jack Ramirez, Esquire, 500 Transwestern Plaza II, P. O. Box 2529, Billings, MT 59103-2529, counsel for Grace Petroleum Corporation.



Attorney, United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,
Plantiff,
vs.
GRACE PETROLEUM CORPORATION,
Defendant.

Cause No. CV-86-003-GF-PGH

ORDER EXTENDING TIME TO RESPOND
TO SUMMARY JUDGMENT MOTION

Pursuant to the motion of the United States of America,
and the attached affidavit of counsel showing good cause and that
opposing counsel has no objection to the motion, the United States
is hereby granted to and including January 15, 1987, in which to
serve its response to the defendant's motion for summary judgment.

Dated this _____ day of _____, 1986.

United States District Judge



U.S. Department of Justice

FILE

DTB:BGD:rb
90-5-1-1-2383

Washington, D.C. 20530

December 12, 1986

Jack Ramirez, Esquire
Crowley, Haughey, Hanson
Toole & Dietrich
P.O. Box 2529
Billings, MT 59103

Re: United States v. Grace Petroleum Corporation

Dear Jack:

As we discussed, enclosed please find the revised Stipulation. It is my understanding that you will file it after you have signed it, and that you will submit a proposed Order which corresponds with the revised language of the Stipulation.

Please send to me a copy of the Order when it is submitted to the Court.

Thank you.

Sincerely,

Assistant Attorney General
Land and Natural Resources
Division

Brian G. Donohue
Attorney, Environmental
Enforcement Section

cc: Al Smith
Alan Morrissey

Jack Ramirez
Crowley, Haughey, Hanson,
Toole & Dietrich
P.O. Box 2529
Billings, MT 59103
406-252-3441

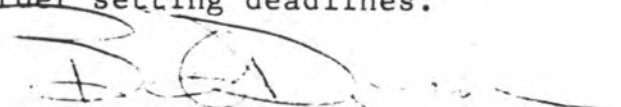
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
Plaintiff,)	
)	
vs.	)	<u>STIPULATION</u>
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	

COME NOW the parties in the above-captioned matter, through undersigned counsel, and stipulate and agree that all current deadlines set forth in the Court's Scheduling Order of September 4, 1986 may be suspended pending either the Court's consideration of defendant's entitlement to summary judgment or, with Court approval, a good faith determination by either of the parties that settlement negotiations have reached an absolute deadlock.

If it becomes necessary, it is respectfully suggested that the Court may wish to consider holding a scheduling conference to reset deadlines and issue a new Order setting deadlines.

DATED: 12/12/86


BRIAN DONOHUE
Attorney, Environmental
Enforcement Section
Land and Natural Resources
Division
United States Department
of Justice
Washington, D.C. 20530
Attorney for Plaintiff

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

DATED: _____

JACK RAMIREZ
Crowley, Haughey, Hanson
Toole & Dietrich
P.O. Box 2529
Billings, MT 59103-2529

Attorney for Defendant

LOGGED

DEC 18 1986

LOU ALENSICH, JR. CLERK

By _____
Deputy Clerk

12/18/86
FILED
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION
PATRICIA A. McGUIRE
DEC 18 1986

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GRACE PETROLEUM CORPORATION,

Defendant.

Cause No. CV-86-003-GF-PGH

ORDER EXTENDING TIME TO RESPOND
TO SUMMARY JUDGMENT MOTION

Pursuant to the motion of the United States of America, and the attached affidavit of counsel showing good cause and that opposing counsel has no objection to the motion, the United States is hereby granted to and including January 15, 1987, in which to serve its response to the defendant's motion for summary judgment.

Dated this 18 day of December 1986.


United States District Judge

DEC 24 1986

Donohue, B

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES
L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

OF COUNSEL
CALE CROWLEY
JAMES M. HAUGHEY

LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANDIN, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HABEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MARY S. YERGER
JON T. DYRE
DENNIS NETTICKSIMMONS
MICHAEL C. WALLER
SHARON NOVAK
ERIC K. ANDERSON
BRUCE A. FREDRICKSON
JEFFREY W. HEDGER
JOHN E. BOHYER

December 3, 1986

Mr. Brian Donohue
Attorney, Environmental Enforcement Section
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

Re: United States vs. Grace Petroleum Corporation
Cause No. CV-86-003-GF-PGH

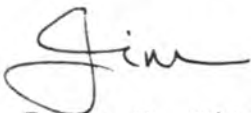
Dear Brian:

In the above-captioned, and further to our discussion of November 20 last, enclosed please find a stipulation of counsel which must be filed in support of our motion for suspension of pretrial schedule.

If you will return it to us signed and dated, we will file same with the Court.

Thank you for your continuing cooperation.

Yours truly,



James P. Sites
CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

Enc.

60-5-11-2383

44	DEPARTMENT OF JUSTICE	R
	DEC 8 1986	E
	LANDS	C
		O
		R
		D

→ Donohue, B

12/3/84

1 JACK RAMIREZ
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P.O. Box 2529
5 Billings, Montana 59103-2529
6 (406) 252-3441
7 ATTORNEYS FOR DEFENDANT

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) MOTION FOR SUSPENSION
17) OF PRETRIAL SCHEDULE
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 COMES NOW the defendant, Grace Petroleum Corporation,
22 and moves this Court for its Order suspending all current
23 deadlines set forth in the Court's Scheduling Order of
24 September 4, 1986, pending consideration by the Court of
25 defendant's entitlement to summary judgment. The instant
motion for suspension is unobjected to by lead government
counsel, based on good cause and for the following grounds:

1. On November 17, 1986, defendant served a motion for
summary judgment, which motion has since been supported by a

6571-2383

44	DEPARTMENT OF JUSTICE	RE
	DEC 8 1986	
	LANDS	

1 brief.

2 2. Under Rule 220-1 of the Local Rules the United
3 States has time within which to respond with its answer
4 brief and defendant may follow with a reply brief.

5 3. Defendant has applied for oral argument on its
6 motion for summary judgment.

7 4. Under the Court's Scheduling Order of September 4,
8 1986, for example, certain discovery deadlines, unless
9 extended, will expire towards the end of this month, i.e.,
10 on December 30, 1986.

11 5. It is submitted that the orderly and efficient
12 prosecution of this cause will be enhanced by suspending all
13 current deadlines pending consideration of defendant's
14 entitlement to summary judgment.

15 6. The Court may be advised that discovery conducted
16 so far in this case includes three depositions taken; discovery
17 propounded by the United States: two requests for production
18 of documents, two sets of interrogatories and a request for
19 admissions; and discovery propounded by defendant: a set of
20 interrogatories and request for production of documents.
21 Settlement negotiations have been undertaken but presently
22 are at an impasse.

23 7. Suspension will permit a decision as to summary
24 judgment and, if granted to defendant, avoid unnecessary
25 pretrial proceedings and discovery. If summary judgment is

1 denied, further and extensive discovery is anticipated as
2 necessary in order to adequately prepare defendant's case
3 for trial or facilitate a nonjudicial resolution of this
4 action.

5 8. Should further discovery become necessary, after
6 consideration of defendant's entitlement to summary judgment,
7 it is respectfully suggested that the Court may wish to
8 consider holding a scheduling conference to reset deadlines
9 and thereafter issue a new Order setting deadlines.

10 A proposed Order accompanies this motion for suspension.
11 The supporting affidavit of undersigned counsel states that
12 undersigned counsel has contacted lead trial counsel for the
13 United States who has authorized us to represent that
14 plaintiff has no objection to the instant motion for suspension.
15 A stipulation reflecting that lead trial counsel for the
16 United States has no objection to the instant motion for
17 suspension has been sent to Mr. Brian Donohue, U.S. Department
18 of Justice, Washington, D.C., and will be filed with the
19 Court upon receipt by the undersigned.

20 DATED this 3rd day of December, 1986.

21 **CERTIFICATE OF SERVICE**

22 This is to certify that the foregoing was duly
23 served by mail upon parties or attorneys of re-
cord at their address or addresses this 3rd
day of Dec, 1986.

24 Crowley, Haughey, Hanson,
Toole & Dietrich
By Jack Ramirez
25 P. O. Box 2529 - Billings, Montana 59103

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

BY Jack Ramirez
JACK RAMIREZ
P.O. Box 2529
Billings, MT 59103-2529

Attorneys for Defendant

Donohue, B

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

RECEIVED
LOCAL
EX-
PATRICIA A. McQUIRE

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11)
12 Plaintiff,)
13 vs.) ORDER EXTENDING TIME
14 GRACE PETROLEUM CORPORATION,) TO SERVE AND FILE MEMORANDUM
15) IN SUPPORT OF MOTION FOR
16) SUMMARY JUDGMENT
17 Defendant.)

18 Pursuant to the Motion of defendant, Grace Petroleum
19 Corporation, showing that opposing counsel, for the United
20 States, has been contacted concerning the extension sought
21 and has no objection to the motion for same, Grace Petroleum
22 Corporation is hereby granted to and including December 2,
23 1986, in which to serve and file its memorandum in support of
24 motion for summary judgment, which motion was served by the
25 defendant on November 17, 1986.

DATED this 15th day of December, 1986.

PAUL G. HATFIELD
United States District Judge 1986

20-5-1-1-2383

DEF. DIST. OF JUSTICE	R
RECORDED	
INDEXED	
FILED	

Donahue, B
FILED

NOV 17 1986

LOU ALEKSICH, JR. CLERK

By _____
Deputy Clerk

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P.O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7
8
9
10
11

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE DISTRICT OF MONTANA
14 GREAT FALLS DIVISION
15

16 UNITED STATES OF AMERICA,)

No. CV 86-03-GF-PGH

17 Plaintiff,)

18 vs.)

MOTION

19 GRACE PETROLEUM CORPORATION,)

20 Defendant.)

21 * * * * *

22 MOTION FOR
23 SUMMARY JUDGMENT

24 Defendant in the above-entitled cause, Grace Petroleum
25 Corporation, hereby moves the Court that it enter, pursuant
to Rule 56(b) of the Federal Rules of Civil Procedure, a summary
judgment in favor of the defendant, on the ground that there
is no genuine issue of material fact, and that defendant is
entitled to judgment as a matter of law.

24 1986
FILED
FALLS DIVISION

1 This motion is based on the brief in support of motion,
2 the deposition of William E. Engle and other files and pleadings
3 in this proceeding.

4 Defendant, the moving party, will serve and file its
5 supporting brief as required by Local Rule 220-1.

6 Dated this 17th day of November, 1986.

7 CROWLEY, HAUGHEY, HANSON, TOOLE
8 & DIETRICH

9
10 By Jack Ramirez
11 P.O. Box 2529
12 Billings, Montana 59103

13 Attorneys for Defendant

14 CERTIFICATE OF SERVICE
15 This is to certify that the foregoing was duly
16 served by mail upon parties or attorneys of re-
17 cord at their address or addresses this 17th
18 day of November, 1986
19 Crowley, Haughey, Hanson,
20 Toole & Dietrich
21 By James S. Siles
22 P.O. Box 2529 - Billings, Montana 59103
23
24
25

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441

11/19/86

7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 vs.
15 GRACE PETROLEUM CORPORATION,
16 Defendant.

No. CV-86-03-GF-PGH

NOTICE OF SERVICE

17
18 Comes now the defendant and hereby certifies that it
19 served Defendant's Response to United States of America's Second
20 Request for Production of Documents, Defendant's Answers to
21 United States of America's Second Set of Interrogatories, and
22 Defendant's Response to Plaintiff's First Request for Admis-
23 sions, by service upon counsel of record by regular United
24 States mail, postage prepaid, on the 12th day of November, 1986.

25

9-5-11-2383	
DEPARTMENT OF JUSTICE	R E C O R D
44 NOV 14 1986	
LANDS	

1 Dated this 12th day of November, 1986.

2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH

4 By Jack Ramsey
5 P. O. Box 2529
6 Billings, Montana 59103
7 Attorneys for Defendant

8 **CERTIFICATE OF SERVICE**

9 This is to certify that the foregoing was duly
10 served by mail upon all parties or attorneys of
11 record at their address or addresses this

12 12th day of Nov 1986

13 CROWLEY, HAUGHEY, HANSON
14 TOOLE & DIETRICH

15 By Jack Ramsey
16 BOX 2529 BILLINGS, MT 59103-2529

17 F. Henry Habicht II
18 Brian G. Donohue
19 Byron H. Dunbar
20 George F. Darragh, Jr.
21
22
23
24
25

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441

7
8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,)

No. CV-86-03-GF-PGH

13 Plaintiff,)

14 vs.)

DEFENDANT'S RESPONSE TO
UNITED STATES OF AMERICA'S
SECOND REQUEST FOR
PRODUCTION OF DOCUMENTS

15 GRACE PETROLEUM CORPORATION,)

16 Defendant.)

17 Defendant Grace Petroleum Corporation responds to
18 United States of America's Second Request for Production of Doc-
19 uments as follow:

20 1. All documents containing any information requested
21 in or contained in your answers to the United States' second in-
22 terrogatories in this case.

23 RESPONSE: See Exhibits A, B, and C attached to Defendant's An-
24 swers to United States of America's Second Set of Interrogato-
25 ries.

1 2. All documents utilized by Grace to respond to the
2 United States' second set of interrogatories in this case.

3 RESPONSE: See Exhibits A, B, and C attached to Defendant's An-
4 swers to United States of America's Second Set of Interrogato-
5 ries.

6 Dated this 11th day of November, 1986.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By Jack Ramirez
10 P. O. Box 2529
11 Billings, Montana 59103
12 Attorneys for Defendant

13
14
15
16
17
18
19
20
21 CERTIFICATE OF SERVICE
22 This is to certify that the within copy of the
23 response to the interrogatories of the United States of America
24 is being served on the undersigned by the undersigned
25 on the 12th day of November 1986.
26 CROWLEY, HAUGHEY, HANSON,
27 TOOLE & DIETRICH
28 By Jack Ramirez
29 P.O. Box 2529 BILLINGS, MT 59103-2529

1 Jack Ramirez
Crowley, Haughey, Hanson,
2 Toole & Dietrich
P.O. Box 2529
3 Billings, Montana 59103
406-252-3441
4
5
6
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>DEFENDANT'S RESPONSE TO</u>
	)	<u>PLAINTIFF'S FIRST REQUEST</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>FOR ADMISSIONS</u>
)	
16 Defendant.)	
17		

18 Defendant responds to Plaintiff's First Request for
19 Admissions as follows:

20 1. Exhibit A attached hereto is a genuine copy of a
21 letter from John Wardell, Chief, Montana Operations Office
22 of the Environmental Protection Agency (EPA), to Grace
23 Petroleum Corporation (Grace).

24 RESPONSE: Denies except admits that Exhibit A without the
25 exhibit label, date stamp, handwritten notations, check

1 marks, underlinings, arrows, strikes and other marks, is a
2 genuine copy of a letter from John Wardell, Chief, Montana
3 Operations Office of the Environmental Protection Agency
4 (EPA).

5 2. Exhibit A was received by Grace.

6 RESPONSE: This request seeks purely a legal conclusion and
7 is objected to for this reason. Denies except admits that
8 Exhibit A without the exhibit label, date stamp, handwritten
9 notations, check marks, underlinings, arrows, strikes and
10 other marks, was addressed to, and received by, James Johnson
11 at the Offices of Grace Petroleum Corporation in Lakewood,
12 CO.

13 3. Exhibit A was received by Grace on June 27, 1984.

14 RESPONSE: This request seeks purely a legal conclusion and
15 is objected to for this reason. Denies except admits that
16 Exhibit A without the exhibit label, date stamp, handwritten
17 notations, check marks, underlinings, arrows, strikes and other
18 marks, was addressed to, and received on or about June 27,
19 1984, by James Johnson at the Offices of Grace Petroleum
20 Corporation in Lakewood, CO.

21 4. Exhibit B attached hereto is a genuine copy of the
22 underground injection control program (UIC) permit application
23 for the EPU 110-XD salt water disposal well submitted to EPA
24 by Grace.

25 RESPONSE: Admits.

1 5. Exhibit B was mailed by Grace to EPA.

2 RESPONSE: Admits.

3 6. Exhibit B was mailed by Grace to EPA on August 1,
4 1984.

5 RESPONSE: Admits.

6 7. Exhibit B was mailed by Grace to EPA after July 30,
7 1984.

8 RESPONSE: Admits.

9 8. Exhibit B was received by EPA on August 6, 1984.

10 RESPONSE: Request objected to on the grounds of relevancy.
11 Admits that the return receipt card is dated August 6, 1984.

12 9. Grace never requested of EPA in writing an enlargement
13 of time within which to submit Exhibit B to EPA.

14 RESPONSE: Admits.

15 10. Grace operated EPU 110-XD between July 31, 1984 and
16 September 28, 1984.

17 RESPONSE: Admits.

18 11. Exhibit C attached hereto is a genuine copy of the
19 UIC permit application for the Buck Elk #2 salt water disposal
20 well submitted to EPA by Grace.

21 RESPONSE: Admits.

22 12. Exhibit C was mailed by Grace to EPA.

23 RESPONSE: Admits.

24 13. Exhibit C was mailed by Grace to EPA on August 1,
25 1984.

1 RESPONSE: Admits.

2 14. Exhibit C was mailed by Grace to EPA after July 30,
3 1984.

4 RESPONSE: Admits.

5 15. Exhibit B was received by EPA on August 6, 1984.

6 RESPONSE: Incorporates its response to request no. 8,
7 above.

8 16. Grace never requested of EPA in writing an enlargement
9 of time within which to submit Exhibit C to EPA.

10 RESPONSE: Admits.

11 17. Grace operated Buck Elk #2 between July 31, 1984
12 and September 28, 1984.

13 RESPONSE: Denies.

14 18. Exhibit D attached hereto is a genuine copy of the
15 UIC permit application for the Going Government #1 salt
16 water disposal well submitted to EPA by Grace.

17 RESPONSE: Admits.

18 19. Exhibit D was mailed by Grace to EPA.

19 RESPONSE: Admits.

20 20. Exhibit D was mailed by Grace to EPA on August 1,
21 1984.

22 RESPONSE: Admits.

23 21. Exhibit D was mailed by Grace to EPA after July 30,
24 1984.

25 RESPONSE: Admits.

22. Exhibit D was received by EPA on August 6, 1984.

RESPONSE: Request objected to on the grounds of relevancy.

Admits that the return receipt card is dated August 6, 1984.

23. Grace never requested of EPA in writing an enlargement of time within which to submit Exhibit D to EPA.

RESPONSE: Admits.

24. Grace operated Goings Government #1 between July 31, 1984 and September 28, 1984.

RESPONSE: Admits.

Except as hereinabove specifically admitted, plaintiff denies each and every request for admission.

Dated this 12th day of November, 1986.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By: Jack Ramirez
Jack Ramirez

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail upon the undersigned attorneys of record at their address or addresses this 12 day of Nov, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By: Jack Ramirez
P.O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	No. CV-86-03-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>DEFENDANT'S ANSWERS TO</u>
	)	<u>UNITED STATES OF AMERICA'S</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>SECOND SET OF</u>
	)	<u>INTERROGATORIES</u>
16 Defendant.)	

17 Defendant Grace Petroleum answers United States of
18 America's Second Set of Interrogatories as follows:

19 INTERROGATORY NO. 1: As to the salt water disposal well, EPU
20 110-XD, indicate the following:

21 (a) indicate the cumulative volume of produced salt
22 water injected through this well from October 1973 through May
23 1985;

24 (b) indicate whether this well suffered any casing
25 leaks, and if so,

- 1 (1) describe each such leak;
2 (2) how each such leak was detected;
3 (3) when each such leak was first detected;
4 (4) the location of each such leak;
5 (5) whether each such leak was repaired; and
6 (6) how and when each such repair was performed;
7 (c) indicate how the two fracture pressure gradients
8 listed by Grace in its original and follow-up UIC permit appli-
9 cations for this well were determined;
10 (d) indicate the depths and salinities (total dis-
11 solved solids) of all USDW's above the injection zone of this
12 well;
13 (e) indicate the location and depths of all water
14 supply wells within a one-mile radius of this well;
15 (f) indicate the initial reservoir pressure in the
16 Mission canyon injection zone in October 1973 prior to the start
17 of injection through this well;
18 (g) indicate whether any further reservoir pressure
19 readings were taken by or on behalf of Grace between October
20 1973 and May 1985, and if so, the date and value of each such
21 reading;
22 (h) indicate all reservoir pressure readings taken by
23 or on behalf of Grace of the lowermost USDW above the Mission
24 Canyon injection zone, and the dates of each such reading;
25 (i) indicate if any mechanical integrity tests were

1 conducted on this well, and if so,

2 1) when each such test was conducted; and

3 2) the results of each such test;

4 (j) indicate whether an operational permit was ever
5 issued to Grace for this well, and if so, when and by whom.

6 ANSWER TO INTERROGATORY NO. 1:

7 The defendant objects to this interrogatory on
8 the grounds that the information sought is irrelevant to the is-
9 sues in the case and the interrogatory is not calculated to lead
10 to the discovery of relevant evidence, particularly as it per-
11 tains to the period of time prior to June 24, 1986, the date the
12 UIC program for the State of Montana became effective. For this
13 reason, the interrogatory is also overly broad and is burdensome
14 and oppressive. Without waiving its objections, the defendant
15 submits the following information:

16 (a) The cumulative volume of water injected into the
17 EPU 110-XD from October 1973 through May 1985 was 8,101,030 bar-
18 rels as reflected in EPU 110-XD Document #1 of Exhibit A, at-
19 tached hereto. Injection ceased on September 28, 1984; the well
20 received no more water prior to plugging and abandonment on
21 August 16, 1985 as reflected in EPU 110-XD Document #'s 2
22 through 2K of Exhibit A.

23 (b) Yes. March 1981, September 1981 and October 1984.

24 March 1981

25 (1) Found leak in 5 1/2 inch casing at 24 feet

1 below surface. A casing pin-end had pulled out
2 of the casing collar.

3 (2) The leak was detected by Grace field person-
4 nel's daily observance of injection pressure.
5 The injection pressure dropped from 450 psi to 65
6 psi.

7 (3) On or about February 27, 1981.

8 (4) 24 feet blow ground level in 5½ inch casing.

9 (5) Leak was repaired.

10 (6) Leak repair work was completed on March 28,
11 1981. The top 429 feet of 5 1/2 inch casing was
12 removed from the well and replaced with new 5 1/2
13 inch casing. This information is reflected in
14 EPU 110-XD Document #2 1 of Exhibit A..

15 September 1981

16 (1a) Found leaks in 5 1/2 inch casing below 429
17 feet and above 1163 feet.

18 (2a) The leak was detected by Grace field per-
19 sonnel's inspection in which pressure on tubing-
20 casing annulus was observed.

21 (3a) No record of date leak detected.

22 (4a) Several leaks between 429 feet and 1163
23 feet.

24 (5a) Leaks were repaired by pumping cement into
25 holes. Casing was cement squeezed on three (3)

1 separate jobs from September 26, 1981 through
2 October 1, 1981.

3 (6a) Three (3) separate squeeze cement jobs were
4 performed from September 26, 1981 through October
5 1, 1981. The casing tested to 1000 psi for 30
6 minutes on October 3, 1981. This information is
7 reflected in EPU 110-XD Document #2 m of Exhibit
8 A.

9 October 1984

10 (1c) Indications are that the casing may have
11 been leaking followed a mechanical integrity test
12 on October 13, 1984. Well work was commenced on
13 October 15, 1984, to determine the cause of the
14 failure. On November 1, 1984, it was determined
15 that the casing had leaks at 1200', 3983', 4400',
16 and 4700', as shown in the attached well summary,
17 identified as EPU 110-XD Document #3 of Exhibit
18 A.

19 (2c) The method of each detection is described
20 in the well Work Summary, identified as EPU 110-
21 XD Document #3 of Exhibit A.

22 (3c) The answer to this question is described in
23 the Well Work Summary, identified as EPU 110-XD
24 Document #3 of Exhibit A..

25 (4c) The location of each leak is described in

the attached Well Work Summary, identified as EPU 110-XD Document #3 of Exhibit A..

(5c) As indicated in the summary, rather than attempt to repair the leaks, plugging and abandonment was carried out on 5/17/85.

NOTE: It should be pointed out that this well was completed to 908 feet and cemented to surface. When the well was drilled, ten barrels of good cement circulated out to the surface, indicating that cement was placed behind the 10-3/4" surface pipe from bottom to surface. This information is derived from the drilling report, which is identified as EPU 110-XD Document #4 of Exhibit A. In light of the depth to which the surface casing was set, and the manner in which it was cemented, the pollution of any underground sources of drinking water is highly improbable, for as geological data indicates, USDW's of less than 10,000 PPM TDS are found in sandstones in Upper Cretaceous Hell Creek and Fox Hill formations located above the Bearpaw, which is the shale above the Judith River formation. EPA's Policy Statement #2, identified as Document #5 of Exhibit A, points out that the only USDW's on the Fort Peck indian Reservation are the aluvian and

1 glacial gravels, as well as the Fox Hills and
2 Fort Union aquifers located at depths to approxi-
3 mately 300 feet. Grace possesses no geological
4 data showing the existence of a USDW within a
5 one-mile radius of this well bore.

6 (c) The fracture pressure gradients and pressures in
7 the original and follow-up UIC permit applications were deter-
8 mined as follows:

9 (1) The fracture pressure gradient submitted in
10 original application was based on service company
11 information. A fracture pressure gradient of .67
12 psi per foot was the information secured. From
13 this data, a sand-face fracture pressure of 4,121
14 psi was computed using a depth of 6,151 feet.
15 The depth utilized in this case was the mid-point
16 depth of the gross lower Mission Canyon zone with
17 the top at 5800 feet and the bottom of the zone
18 at 6502 feet.

19 (2) The fracture pressure gradient submitted in
20 follow-up application was based on service com-
21 pany information, a fracture pressure gradient of
22 .62 psi per foot. In this submittal, Grace uti-
23 lized a specific gravity of 1.091 for the injec-
24 tion water and a depth of 6,335 feet in calculat-
25 ing a surface fracture pressure of 935 psi. The

specific gravity of the water was based on a water analysis from the EPU 110-XD well which was attached to the application. The depth utilized was based on the mid-point depth of the Lower Mission Canyon perforations in the well.

(d) Grace Petroleum possesses no data reflecting upon salinities (TDS) of any USDW's above the injection zone of this well.

(e) A field survey conducted by Grace Operations personnel located no water supply wells within a one-mile radius of this well.

(f) Reservoir pressure in the Mission Canyon injection zone prior to commencement of injection in 1973, if ever recorded, is undocumented in Grace files.

(g) No reservoir pressure readings were conducted in lowermost USDW above Mission Canyon zone as there would be no reason to conduct such tests. To our knowledge, there are no USDW's above the Dakota formation and below the surface aquifers.

(h) Same as (g) above.

(i) Mechanical integrity tests, as defined by the EPA, were never conducted prior to october 12, 1984.

(1) The first mechanical integrity test (by EPA definition) was conducted on October 12, 1984.

(2) The test failed.

(j) The Montana State Board of Oil & Gas Conserva-

tion, on March 19, 1973, issued Order No. 10-A-73, authorizing the Polumbus Corporation to dispose of salt water through the EPU 110-SC into the Mission Canyon formation. The order is identified as Document #6 of Exhibit A.

The U.S.G.S., on November 6, 1972, issued an approval, in Form 9-331, to recomplete this well for water disposal purposes. The authorization is identified as Document #7 of Exhibit A.

INTERROGATORY NO. 2: As to the salt water disposal well, Going Government #1, indicate the following:

(a) indicate the cumulative volume of produced sale water injected through this well from May 1977 through May 1985.

(b) indicate whether this well suffered any casing leaks, and if so,

(1) describe each such leak;

(2) how each such leak was detected;

(3) when each such leak was first detected;

(4) the location of each such leak;

(5) whether each such leak was repaired, and

(6) how and when each such repair was performed;

(c) indicate how the two fracture pressure gradients listed by Grace in its original and follow-up UIC permit applications for this well were determined;

(d) indicate if any mechanical integrity tests were conducted on this well, and if so,

1 (1) when each such test was conducted; and

2 (2) the results of each such test;

3 (e) indicate the depths and salinities (total dis-
4 solved solids) of all USDW's above the injection zone of this
5 well;

6 (f) indicate the location and depths of all water
7 supply wells within a one-mile radius of this well;

8 (g) indicate the initial reservoir pressure in the
9 Dakota injection zone in May 1977 prior to the start of injec-
10 tion through this well;

11 (h) indicate whether any further reservoir pressure
12 readings were taken by or on behalf of Grace between May 1977
13 and May 1985 and if so, the date and value of each such reading;

14 (i) indicate all reservoir pressure readings taken by
15 or on behalf of Grace of the lowermost USDW above the Dakota in-
16 jection zone, and the date of each such reading;

17 (j) indicate whether the remedial repair program sub-
18 mitted to EPA in March/April 1985, was carried out; and

19 (1) if so, when such program was carried out,
20 or

21 (2) if not, why such program was not carried
22 out;

23 (k) indicate whether an operational permit was ever
24 issued to Grace for this well, and if so, when and by whom.

25 ANSWER TO INTERROGATORY NO. 2:

1 The defendant objects to this interrogatory on
2 the grounds that the information sought is irrelevant to the is-
3 sues in the case and the interrogatory is not calculated to lead
4 to the discovery of relevant evidence, particularly as it per-
5 tains to the period of time prior to June 24, 1986, the date the
6 UIC program for the State of Montana became effective. For this
7 reason, the interrogatory is also overly broad and is burdensome
8 and oppressive. Without waiving its objections, the defendant
9 submits the following information:

10 (a) The cumulative volume of water injected into the
11 Goings Government #1 from May 1977 through May 1985 was
12 3,062,370 barrels. Injection was suspended on September 28,
13 1984. Injection was recommenced on May 23, 1985. Injection re-
14 ports from September 1984 through May 1985 are attached as
15 Goings Government #1, Document #1 of Exhibit B.

16 (b) Specific information as to casing leaks prior to
17 adoption of the UIC Rules in June 1984 does not exist in the
18 records on this well.

19 (1) The first indication of a possible casing
20 leak occurred during performance of a mechanical
21 integrity test on October 12, 1984. Well work
22 was commenced the following day to locate the
23 source of the problem. Pressure application of
24 300# to 1,000' produced a satisfactory result.
25 As reflected in the Well Work Summary, identified

as Goings Government #1, Document #2 of Exhibit B, a hole in the casing was located at \pm 1,214 feet. The Well Work Summary reflects additional holes located at greater depths.

(2) The method of detection is described in the Well Work Summary identified as Goings Government #1, Document #2 of Exhibit B.

(3) The answer to this question is reflected in Goings Government #1, Document #2 of Exhibit B.

(4) The answer to this question is reflected in Goings Government #1, Document #2 of Exhibit B.

(5) Leaks were repaired.

(6) On 4/08/85, a plan to repair the well was submitted to the EPA as reflected in Goings Government #1, Document #3 of Exhibit B. On 5/12/85 work commenced to cement 2-7/8" tubing string inside 4 $\frac{1}{2}$ " casing from 3,590 feet to surface. Details of progress are reflected in Well Work Summary, identified as Goings Government #1, Document #4 of Exhibit B.

NOTE: While this well apparently suffered casing leaks at various depths below approximately 1,271 feet, Grace Petroleum possesses no evidence or information relative to pollution of a USDW. The evidence, as interpreted by Grace, is that the

1 surface pipe, set and cemented to 1,302 feet, has
2 adequately served to prevent migration of salt
3 water into USDW's which, by EPA' Policy Statement
4 #2, identified as Going Government #1, Document
5 #5 of Exhibit B, are the Fox Hills and Fort Union
6 aquifers on the Fort Peck Indian Reservation.
7 The Judith River Formation is overlain with some
8 800 to 1,000 feet of shale, according to Document
9 #5 of Exhibit B. It is our belief that an over-
10 lay of this thickness renders the prospect of
11 pollution highly improbable.

12 (c) The original permit application reported a frac-
13 ture pressure gradient of .69 psi per foot and a sand-face frac-
14 ture pressure of 2,553 psi. The follow-up submittal shows a
15 fracture pressure gradient of .74 psi per foot and a surface
16 fracture pressure of 900 psi. The date reported in both submit-
17 tals was based on the ISIP data recorded on July 1, 1975, while
18 conducting an injectivity test on the Dakota zone. This test
19 indicated a surface fracture pressure of 900 psi. The reported
20 fracture pressure gradients vary between the original and
21 follow-up submittals due to different water specific gravities
22 being utilized in the calculations.

23 They were determined as follows:

24 Original:
$$\frac{(3730) (.433) (1.017) + 900}{3730} = .69 \text{ psi/ft.}$$

25

1
2 Final: $\frac{(3730) (.433) (1.145) + 900}{3730} = .74 \text{ psi/ft.}$

3
4 ORIGINAL DATA: ISIP: 900 psi, 7-01-75
Water Specific Gravity 1.017
Mid-Point of Dakota Perforations:
5 3,730'

6 FINAL DATA: ISIP: 900
Water Specific Gravity 1.145
Mid-Point of Dakota Perforations:
7 3,730'

8
9 (d) Grace files contain no data reflecting upon
10 mechanical integrity tests conducted on this well from the date
11 it was completed as a disposal well and the date upon which
12 EPA's UIC rules became effective.

13 (1) The first mechanical integrity test, a ref-
14 erence to which is noted in the Well Work Sum-
15 mary, occurred on October 12, 1984. The Well
16 Work Summary is attached as Goings Government #1,
17 Document #2 of Exhibit B.

18 (2) The test failed.

19 (e) This data is not available as none of the USDW
20 zones were tested behind the surface pipe. Grace does not have
21 any specific knowledge that a USDW zone is present above the in-
22 jection zone based on logs from this well or offset wells.

23 (f) A water supply well is located approximately
24 1,500 feet southwest of Goings SWD well. The depth of the well
25 is approximately 200 feet.

1 (g) No reservoir pressure survey was conducted on
2 Dakota injection zone in May 1977.

3 (h) No specific reservoir pressure surveys were con-
4 ducted. Reservoir pressure was less than 1,900 psi.

5 (i) No reservoir pressure readings were conducted in
6 lowermost USDW above Dakota zones as there would be no reason to
7 conduct such tests. To our knowledge, there are no USDW's above
8 the Dakota formation and below the surface aquifers.

9 (j) Remedial repair program submitted to EPA in
10 March/April 1985.

11 (1) On April 8, 1985, Grace submitted a repair
12 program for subject wells and only a part of the
13 proposal was carried out. This proposal called
14 for an attempt to cut and pull part of the 4½-
15 inch casing string and replace it with new cas-
16 ing. This attempt was made from May 12, 1985,
17 through May 18, 1985. The work was discontinued
18 as less than 1,400 feet of casing was free and
19 could have been pulled and replaced. A majority
20 of the holes were below this depth.

21 (2) The above program was not carried out as
22 discussed above; however, an alternate program of
23 cementing a string of 2 7/8-inch tubing inside
24 the 4½-inch casing was executed on May 20, 1985,
25 through May 23, 1985, as reflected in Goings Gov-

ernment #1, Documents #4 and #6 of Exhibit B..

Received EPA approval to inject on May 23, 1985.

(k) An operational report was received by Grace from the EPA on May 31, 1985, by correspondence and verbally on May 23, 1985 by the EPA. The Bureau of Land Management approved Form 3160-5 on May 29, 1985.

INTERROGATORY NO. 3: As to the salt water disposal well, Buck Elk #2, indicate the following:

(a) indicate the cumulative volume of produced salt water injected through this well from December 1967 through January, 1986.

(b) indicate whether this well suffered any casing leaks, and if so,

(1) describe each such leak;

(2) how each such leak was detected;

(3) when each such leak was first detected;

(4) the location of each such leak;

(5) whether each leak was repaired; and

(6) how and when each such repair was performed;

(c) indicate how the fracture pressure gradient listed by Grace in its UIC permit applications for this well was determined;

(d) indicate the depths and salinities (total dissolved solids) of all USDW's above the injection zone of this well;

1 (e) indicate the location and depths of all water
2 supply wells within a one-mile radius of this well;

3 (f) indicate the initial reservoir pressure in the
4 Judith River injection zone in December 1967 prior to the start
5 of injection through this well;

6 (g) indicate whether any further reservoir pressure
7 readings were taken by or on behalf of Grace between December
8 1967 and January 1986, and if so, the data and value of each
9 such reading;

10 (h) indicate all reservoir pressure readings taken by
11 or on behalf of Grace of the lowermost USDW above the Judith
12 River injection zone, and the date of each such reading;

13 (i) indicate if any mechanical integrity tests were
14 conducted on this well, and if so,

15 (1) when each such test was conducted; and

16 (2) the results of each such test;

17 (j) indicate whether this well was ever operated at a
18 pressure exceeding 400 pounds per square inch (psi) maximum sur-
19 face injection pressure, and if so,

20 (1) when; and

21 (2) the maximum surface injection pressure on
22 each such occasion;

23 (k) indicate why Grace chose to plug and abandon this
24 well;

25 (1) indicate the salinity (total dissolved solids) of

1 the Judith River injection zone in December 1967 prior to the
2 start of injection;

3 (m) indicate the thickness and lateral extent of the
4 Bearpaw Shale Formation which overlies the Judith River Forma-
5 tion;

6 (n) indicate the salinity (total dissolved solids) of
7 the Hell Creek Formation overlying the Bearpaw Shale Formation;

8 (o) indicate the salinity (total dissolved solids) of
9 the Fox Hills Formation which overlies the Bearpaw Shale Forma-
10 tion;

11 (p) indicate whether an operational permit was ever
12 issued to Grace for this well, and if so, when and by whom.

13 ANSWER TO INTERROGATORY NO. 3:

14 The defendant objects to this interrogatory on
15 the grounds that the information sought is irrelevant to the is-
16 sues in the case and the interrogatory is not calculated to lead
17 to the discovery of relevant evidence, particularly as it per-
18 tains to the period of time prior to June 24, 1986, the date the
19 UIC program for the State of Montana became effective. For this
20 reason, the interrogatory is also overly broad and is burdensome
21 and oppressive. Without waiving its objections, the defendant
22 submits the following information:

23 (a) The cumulative volume of water injected into the
24 Buck Elk #2 WDW from December 1967 through January 1986 was
25 3,263,920 barrels, as reflected in Injection Report identified

1 as Buck Elk Document #1 of Exhibit C.. Reports on subsurface
2 injection into this well were discontinued in December 1982. No
3 water was injected from June 1982 forward, as reflected in Docu-
4 ment #8 of Exhibit C. It was plugged and abandoned on February
5 1, 1986.

6 (b) Yes.

7 (1a) The first indication of a possible casing
8 leak was on May 13, 1970 when pressure was found
9 on tubing-casing annulus and on the 7-inch casing
10 - 10 3/4" surface casing annulus. This down-hole
11 leak resulted in water flow from the casing
12 valves at the surface.

13 (2a) The possible leak was detected by surface
14 observations which required opening of necessary
15 casing valves.

16 (3a) The Well Work Summary, identified as Docu-
17 ment #2a of Exhibit C, reflects the date which a
18 possible casing leak was detected.

19 (4a) The Well Work Summary, identified as Docu-
20 ment #2a of Exhibit C, reflects the possible lo-
21 cation of a casing leak.

22 (5a) The possible leak was repaired.

23 (6a) The possible casing leak repair was com-
24 pleted on May 22, 1970, as identified by Document
25 2a of Exhibit C. The 2 7/8" tubing was replaced

1 and cement was pumped below the packer set at
2 1000 feet. Assume leak in 7-inch casing was from
3 the original squeeze holes at 1079' to 1080' or
4 possibly communication in cement behind the 7-
5 inch casing.

6 (1b) On June 14, 1978, there is a report of a
7 possible casing leak. It was an opinion noted on
8 a Workover Report, Document 2b of Exhibit C, by a
9 Grace Production Foreman. There are insufficient
10 reports and documentation in Grace's files to
11 verify this opinion. A tubing leak was repaired
12 on this date based upon water pressure at the
13 wellhead. The casing was not tested and the well
14 was placed back in service.

15 (2b) The leak was detected by surface observa-
16 tions by Grace field personnel in their routine
17 inspection of each well. The only report avail-
18 able in Grace's files indicate water surfacing
19 from well, which is shown on Workover Report
20 dated June 14, 1978, identified as Document #2b
21 of Exhibit C.

22 (3b) No specific record of first detection ex-
23 cept for Workover Report dated June 14, 1978,
24 identified as Document #2b of Exhibit C.

25 (4b) The only leak reported in Workover Report

1 dated June 14, 1978, identified as Document #2b
2 of Exhibit C, was a split joint of tubing which
3 was replaced.

4 (5b) The only leak detected was repaired.

5 (6b) The only leak found was repaired by placing
6 one joint of split tubing on June 14, 1978, as
7 shown by Workover Report dated June 14, 1978,
8 identified as Document #2b of Exhibit C.

9 (1c) A possible leak was indicated on October
10 13, 1984, during the performance of a mechanical
11 integrity test. A hole in the 7-inch casing was
12 found on October 23, 1984, at 580 feet.

13 (2c) The leak was detected during workover oper-
14 ations by running a packer in the hole and pres-
15 sure testing the casing at various depths. The
16 details of this procedure are described in Well
17 Work Report, identified as Document #2c of Ex-
18 hibit C.

19 (3c) The leak was detected on October 12, 1984,
20 while performing a mechanical integrity test.
21 The specific casing leak was located on October
22 24, 1984, as described in Well Work Report,
23 identified as Document #2c of Exhibit C.

24 (4c) The leak was located at a depth of 680 feet
25 in the 7-inch casing.

1 (5c) The leak was not repaired as well had not
2 been utilized since May of 1982.

3 (6c) This well, having been inactive since May
4 1982, was continued as an inactive WDW pending
5 EPA's inquiry into the effects of injecting pro-
6 duced water into the Judith River formation.
7 When the EPA issued final permits in connection
8 with the wells in question, the permit for this
9 well was withheld (Buck Elk Document #3 of Ex-
10 hibit C) pending the outcome of a public hearing
11 held on May 29, 1985. Because no permit was is-
12 sued to this well, the condition of proving me-
13 chanical integrity or plugging and abandoning
14 with 60 days did not apply.

15 While the EPA ultimately declared (following
16 public hearings) on December 30, 1985 that exist-
17 ing WDW's would be permitted to recommence injec-
18 tion in the East Poplar Field, (EPA 12/30/85 Let-
19 ter Announcement and Policy Statement are identi-
20 fied as Document #6 of Exhibit C) Jack Nance,
21 Denver District Manager, approximately three
22 weeks prior to EPA's announcement, submitted a
23 letter of recommendation with a work AFE to plug
24 and abandon the Buck Elk #2. The recommendation
25 and AFE are identified as Documents #4 and #5 of

Exhibit C.

NOTE: The Buck Elk #2 is an old well, having been completed and suspended on 4/30/58 as a dry hole, as indicated in Buck Elk Document #7 of Exhibit C. The record reflects that a 10 3/4" surface pipe was set at 326 feet and cemented in accordance with Montana requirements. The well was re-entered in December 1967 for water disposal by authority of the U.S.G.S. and state of Montana to inject into the Judith River formation. Except for a mere 2000 barrels of water injected in May 1982 (Buck Elk #2, Document #8 of Exhibit C), it received a total of 3,261,920 barrels, the last 100,512 of which were injected in 1978.

During the many years this well has been operated for disposal purposes, Grace Petroleum is in possession of no complaint regarding pollution of USDW in the Poplar Field area. The only concern ever expressed, as understood by Grace, came from the Fort Peck Indian Tribal Council. The Council, according to EPA statements, expressed considerable concern regarding the Judith River formation as a USDW. The Council was presumably pacified as a result of public hearings and final position adopted by the EPA. The EPA's final po-

sition (as expressed in their Policy Statement identified as Document #6 of Exhibit C) was that the Judith River formation has never been, and will not in the future, serve as an USDW in the Poplar Field area.

(c) The first permit application contained a fracture pressure of 900 psi. The final permit application listed a fracture pressure gradient of .92 psi per foot and a surface fracture pressure of 525 psi. Both of these submittals are apparently estimates, because precise data on the Judith River formation is not available in that it is not a producing formation. We do not know what data was used in the initial permit application. It is assumed that a fracture pressure gradient of .92 psi per foot was based on an interpretation of a two point step-rate test. The step-rate data available in Grace's files indicate a surface fracture pressure between 450 psi and 500 psi, but these data involve only two points.

(d) Grace Petroleum possesses no information reflecting upon depths and salinities of USDW's above the injection zone (Judith River) of this well.

(e) Without benefit of a map to spot its location, a water well, on which stands a windmill, is located to the north and east of the Buck Elk #2, a distance of approximately 1/2 mile. This well is reported to be on the south edge of Section 6. Its depth is not known.

1 (f) Our records reflect no attempt to determine the
2 reservoir pressure in the Judith River formation prior to com-
3 mencement of injection in 1967.

4 (g) Our records reflect no reservoir pressure read-
5 ings taken by Grace or by anyone in behalf of Grace.

6 (h) No reservoir pressure readings were conducted in
7 lowermost USDW above Judith River zone as there would be no rea-
8 son to conduct such tests. To our knowledge, there are no
9 USDW's above the Dakota formation and below the surface aquifers.

10 (i) No mechanical integrity tests as defined by the
11 EPA were ever conducted on this well except as follows:

12 (1) October 12, 1984.

13 (2) The test failed.

14 (j) Our records reflecting upon injection pressures
15 commence in January 1975. The pressure at which the well was op-
16 erated prior to that time is not known. Subsurface injection
17 reports submitted to the Montana Oil & Gas Conservation Commis-
18 sion indicate the following:

19 (1) January 1975 through October 1976 - 450
20 pounds. November 1976 through March 1978 - 425
21 pounds. From April 1978 to may 1982 no injection
22 occurred. In May 1982 2,000 barrels of water
23 were injected at an unrecorded pressure as re-
24 flected in Buck Elk Document #8. No additional
25 injections occurred from that period forward.

1 The well was plugged and abandoned on February 1,
2 1986.

3 (k) Grace chose to plug and abandon the Buck Elk #2
4 on the basis of two factors. They are:

5 (1) Grace Production Engineer, Bill Baswell, in
6 the Denver District, attended a hearing on the
7 matter of injection into the Judith River forma-
8 tion in May, 1985. At that hearing, and subse-
9 quent requests from EPA for additional informa-
10 tion, Bill developed the distinct impression that
11 a permit to operate the well would not be forth-
12 coming. Based upon that impression, he recom-
13 mended in a letter of December 12, 1985, to Dis-
14 trict Manager, Jack Nance, that it be plugged
15 and abandoned. Mr. Baswell's letter is identi-
16 fied as Document #4 of Exhibit C.

17 (2) Based upon Bill Baswell's recommendation and
18 review of cost-benefit, Jack Nance concluded that
19 Grace would be better served by plugging and
20 abandonment. His recommendation to plug and
21 abandon was submitted to Grace in Oklahoma City
22 on December 30, 1985. Mr. Nance's recommenda-
23 tion, in the form of an Authorization for Expen-
24 diture, is identified as Document #5 of Exhibit
25 C. Approval to plug and abandon the Buck Elk #2

1 was given on January 2, 1986 by Jack D. Hill,
2 Vice President of Grace Operations.


3 STATE OF MONTANA)
4) ss.
5 County of Yellowstone)

6 JACK RAMIREZ, being first duly sworn, deposes and
7 says:

8 That he is one of the attorneys retained by the
9 defendant for the defense of the above mentioned action and in
10 such capacity he has been required to examine the file and
11 gather information necessary to answer the foregoing inter-
12 rogatories, which said information has come from numerous
13 conferences with Grace Petroleum Corporation, as well as from
14 examination of numerous documents. This verificastion is made
15 by the undersigned on behalf of the defendant. Your affiant has
16 read the foregoing interrogatories and answers thereto, and
17 believes that they are true to the best of his knowledge,
18 information and belief.

19 
20 Jack Ramirez

21 Subscribed and sworn to before me this 12th day of
22 November, 1986.

23 
24 Notary Public for the State of Montana
25 Residing at Billings, Montana
(Seal) My Commission expires March 5, 1987

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail upon all parties or attorneys of record at their address or addresses this

12th day of Nov 19 86

CROWLEY, HAUGHEY, HANSON
TOOLE & DIETRICH

By Jack Ramirez
BOX 2529 BILLINGS, MT 59103-2529

EXHIBIT A

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana2535 St. Johns Ave.
BILLINGS, MT 59102

EPU 110-XD Document #1

REPORT OF SUBSURFACE INJECTIONS

For Month of Sept, 1984Field East Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name EPU 110XD Formation Injected Into Lower Mission CanyonInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Madison-Heath-MiskuType of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	53,790	8,101,030	430
TOTALS					53,790	8,101,030	430

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Susan Ellis

Title

Production Clerk

Address

6501 N. BroadwayOklahoma City, OK 73116-8298

FORM NO. 3

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of OCTOBER 19 84Field E. Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name EPU 110 XD Formation Injected Into Lower Mission CanyonInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Madison-Heath-MiskuType of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
EPU	110XD	10	28N	51E	0	0	0
TOTALS					0	0	0

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Susan Ellis
Title Production Clerk
Address 6501 N. Broadway
Oklahoma City, OK 73116-8298

(SUBMIT IN DUPLICATE)

ARM 36.22.307
ARM 36.22.1234

TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of NOV. 19 84

Field E. POPLAR County Roosevelt Operator Grace Petroleum Corporation

Unit or Lease Name EPU 110 XD Formation Injected Into Lower Mission Canyon

Injection Fluid (water, gas, air, LPG, etc.) Water

Source of Injection Fluid Madison-Heath-Misku

Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
EPU	110XD	10	28N	51E	0	0	0
TOTALS					0	0	0

NOTE: Mail two (2) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Title

Address

Janelle Goodall

Production Clerk

6501 N. Broadway

Oklahoma City, OK 73116-8298

FORM NO. 3

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of DEC 1984Field E. POPLAR County ROOSEVELT Operator GRACE PETROLEUM
Unit or Lease Name EPU 110XD Formation Injected Into LOWER MISSION CANYON
Injection Fluid (water, gas, air, LPG, etc.) WATER
Source of Injection Fluid MADISON-HEATH-MISKU
Type of Project (Secondary Recovery, Pressure Maint., Disposal) DISPOSAL

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
EPU	110XD	10	28N	51E	0	0	0
TOTALS					0	0	0

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janelle Goodall
Title PRODUCTION ACCOUNTING
Address 6501 N. BROADWAY
OKLAHOMA CITY, OK 73116-
8298

FORM NO. 5

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234

TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102
REPORT OF SUBSURFACE INJECTIONS

For Month of JANUARY 1985

Field East Poplar County Roosevelt Operator Grace Petroleum Corporation
Unit or Lease Name EPU 110XD Formation Injected Into Lower Mission Canyon
Injection Fluid (water, gas, air, LPG, etc.) Water
Source of Injection Fluid Madison-Heath-Misku
Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbls, MCF, gals	Cumulative Inj. bbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	0	0
TOTALS					0	0	0

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Goodall

Title

Production Clerk

Address

6501 N. Broadway
Oklahoma City, OK 73116-8298

TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102
REPORT OF SUBSURFACE INJECTIONS

For Month of FEBRUARY 1985

Field EAST POPLAR County ROOSEVELT Operator GRACE PETROLEUM CORP.
Unit or Lease Name EPU 110XD Formation Injected Into LOWER MISSION CANYON
Injection Fluid (water, gas, air, LPG, etc.) WATER
Source of Injection Fluid MADISON - NEATH - MISKU
Type of Project (Secondary Recovery, Pressure Maint., Disposal) DISPOSAL

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
EPU	110XD	10	28N	51E	0	0	0
TOTALS					0	0	0

NOTE: Mail two (2) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janelle Goodall
Title PRODUCTION ACCOUNTING
Address 6501 N. BROADWAY
OKLAHOMA CITY, OK 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of MARCH, 1985

Field East Poplar County Roosevelt Operator Grace Petroleum Corporation
 Unit or Lease Name EPU 110XD Formation Injected Into Lower Mission Canyon
 Injection Fluid (water, gas, air, LPG, etc.) Water
 Source of Injection Fluid Madison-Heath-Misku
 Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	8,101,030	
TOTALS					0	8,101,030	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Goodall

Title

Production Clerk

Address

6501 N. Broadway

Oklahoma City, OK 73116-8298

FORM NO. 5

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of APRIL 1985

Field East Poplar County Roosevelt Operator Grace Petroleum Corporation
 Unit or Lease Name EPU 110XD Formation Injected Into Lower Mission Canyon
 Injection Fluid (water, gas, air, LPG, etc.) Water
 Source of Injection Fluid Madison-Heath-Misku
 Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	8,101,030	
TOTALS					0	8,101,030	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janell Goodall
 Title Production Clerk
 Address 6501 N. Broadway
Oklahoma City, OK 73116-8298

FORM NO. 5

(SUBMIT IN TRIPlicate)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of MAY 1985Field East Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name EPU 110XD Formation Injected Into Lower Mission CanyonInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Madison-Heath-MiskuType of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cummulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	8,101,030	
TOTALS					0	8,101,030	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Goodall

Title

Production Clerk

Address

6501 N. Broadway
Oklahoma City, OK 73116-8298

(SUBMIT IN TRIPLICATE)

AKM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of JUNE 1985Field East Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name EPU 110XD Formation Injected Into Lower Mission CanyonInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Madison-Heath-MiskuType of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	8,101,030	
TOTALS					0	8,101,030	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Goodall

Title

Production Clerk

Address

6501 N. Broadway
Oklahoma City, OK 73116-8298

(SUBMIT IN TRIPLICA

TO

Board of Oil and Gas Conservation
of the State of Montana2535 St. Johns Ave.
BILLINGS, MT 59102

ARM 36.22.307

ARM 36.22.1234

REPORT OF SUBSURFACE INJECTIONS

For Month of July 1985Field East Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name EPU 110XD Formation Injected Into Lower Mission CanyonInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Madison-Heath-MiskuType of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	8,101,030	
TOTALS					0	8,101,030	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Gordall

Title

Production Clerk

Address

6501 N. Broadway
Oklahoma City, OK 73116-8298

FORM NO. 5

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of AUGUST 1985

Field East Poplar County Roosevelt Operator Grace Petroleum Corporation
 Unit or Lease Name EPU 110XD Formation Injected Into Lower Mission Canyon
 Injection Fluid (water, gas, air, LPG, etc.) Water
 Source of Injection Fluid Madison-Heath-Misku
 Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbls, MCF, gals	Cumulative Inj. bbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	0	8,101,030	
TOTALS					0	8,101,030	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Danella Gordall
 Title Production Clerk
 Address 6501 N. Broadway
Oklahoma City, OK 73116-8298

(SUBMIT IN TRIPLICATE)

EPU 110-XD Document # K

ARM 30.44.301
ARM 36.22.1234

TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of SEPT 1985

Field East Poplar County Roosevelt Operator Grace Petroleum Corporation
Unit or Lease Name EPU 110XD Formation Injected Into Lower Mission Canyon
Injection Fluid (water, gas, air, LPG, etc.) Water
Source of Injection Fluid Madison-Heath-Misku
Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
E P U	110XD	10	28N	51E	PLUGGED AND ABANDONED August 16, 1985		
TOTALS							

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Gordall

Title

Production Clerk

Address

6501 N. BroadwayOklahoma City, OK 73116-8298

Grace Petroleum Corporation
Subsidiary of W.R. Grace & Co.

Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EPU #110XD
Sec. 10-T28N-R51E
660' FEI. & 1525' FSL
Roosevelt Co., MT
East Poplar Field
TD: 6435' Miss Cany
GPC WI = 100%
— AFE Pending

3PC
Contr: Gibson
WOSD: 2/27/81
LCS:
GL:
KB:
DF:

— EPU 110-XD Document #2-1

2/27/81 FIRST REPORT Dn w/ parted
pkr or csg leak. WOSR.

2/28/81 MI & RU Gibson Well Service on loc.
SION. RC: \$600 (est) CWC: \$600

3/1/81 & 3/2/81 SD over week-end.

3/3/81 Try to bleed well down, no success;
try to kill well, 200 bbls salt wtr,
wouldn't kill. SION.
RC: \$1352 TRK: \$1000 (est)
DC: \$2352 CWC: \$2952

3/4/81 Pmpd 200 bbls hvy salt wtr down tbgs.
Pmpd 200 bbls hvy salt wtr down csg. Well
still wouldn't kill. SIWO mud.
Mud: \$1294
RC: \$1352 CWC: \$2646

3/5/81 WO mud tanks & mud. Started
mixing mud. Kept 2 men on standby, circ
mud over night.
RC: \$2904 Truck: \$770
Mud: \$5485 DC: \$9159
CWC: \$11,805

3/6/81 Mix bar into mud. Pumped 200 bbls
11# md dn tbgs & csg. Well still flwg up tbgs
& csg. SI WOO.
RC \$2213 \$14,018

3/7/81 Clean mud tanks, haul in heavy salt
wtr, start mixing heavy mud.
MC: \$10,000 (est.) Pmp truck: \$396
RC: \$1,500 DC: \$11,896 CWC: \$25,914

3/8/81 Mix mud for 24 hrs.
RC: \$2,400 CWC: \$28,314

3/9/81 Fin mixing mud. RU Halliburton,
pmpd 300 bbls 13# mud, down tbgs & csg @
6 BPM, 300 psi, tbgs dead, but csg & surf
pipe flowed hot clear wtr. SDON.
Halliburton: \$1683 Roust Crew: \$480
RC: \$1,300 DC: \$3,463 CWC: \$31,777

3/10/81 Mixed 20% LCM w/70 bbls 11# mud.
Mixed 220 bbls 14.6# mud. Pmpd 50 bbls
11# mud down tbgs. RU Halliburton. Pmp
185 bbls 14.6# mud down tbgs @ 7 BPM, 450
psi. RD Halliburton. Tbg, csg & surf
pipe on vac. Stripped off Xmas tree,
strip on BOP, latch onto tbgs, tbgs stuck,
wkd tbgs btw 30,000 & 65,000 over string
wgt, tbgs slowly wkg out of hole, had 20'
of first jt out of hole then tbgs ptd.
POOH w/1 jt tbgs, 26' tbgs subs, 4 jts tbgs
& 12' of 6th jt. Closed BOP rams. SDON.
Halliburton \$900 Mud \$2914 RC \$1851
DC: \$5665 CWC: \$37,442

3/11/81 WO Acme tools. Acme bought wrong
size tools. WO tools. PU OS, bumper swb,
jars & RIH w/ 1 jt, csg tight. POOH &
check OS. Attempted to RIH w/ tools,
couldn't get below 24'. POOH, LD tools, att
to RIH w/ tbgs, couldn't get below 24', POOH
w/ tbgs. RIH w/ IB, POOH w/ IB, had 1/4"
wide x 1 1/4" deep x 2" long straight impres-
sion. SDON.
RC: \$1644 CWC: \$39,086

3/12/81 RIH w/tbgs, bull plugged, worked
thru csg @ 24'. POOH & put on IB. Ran
IB, appears to indicate ptd csg @ 24'. RIH
2/3" bull plug, worked thru bad spot. POOH
& RIH w/IB again, tried to get 4 1/2" swedge
thru bad spot, had no success. Swedge
indicates setting on edge of csg clr.
Final determination: csg ptd @ 24' & tools
going outside of 5 1/2" in 10-3/4" surf pipe.
SDON.
RC not available.

Grace Petroleum Corporation
Subsidiary of W.R. Grace & Co.
Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EP" #110XD
S 10-T28N-R51E
660' FEL & 1525' FSL
Roosevelt Co., MT
East Poplar Field
TD: 6435' Miss Cany
GPC WI = 100%
AFE Pending

PC
Con . Gibson
WOSD: 2/27/81
LCS:
GL:
KB:
DF:

3/13/81 Well flowing again. Spent all day
prep to fish csg & mix mud.
Stand-by rig: \$1386

3/14/81 Mix 200 bbls 14.4# mud. RU
Halliburton. Pmpd 200 bbls mud dn csg @
rate of 6.6 BPM, 350 psi. RD Halliburton.
Well immed flowed back @ high rate, 13.2#
mud. SDON.

RC \$1575 Mud \$7590
Halliburton \$985 Vac Truck \$331
DC: \$10,481 CWC: \$52,339

3/15/81 Open well to pit, flwg muddy
wtr. RU Hyd stripping head Otis plug,
4 11/16" OS. While RU tool well died
suddenly. Remv BOP & chg out csg spool.
WO welder to weld on csg. Well started
flwg again, couldn't weld. Instl BOP.
PU 4 11/16" OS & RIH. Stacked out @ 28'.
POOH & PU 4 3/8" swage & RIH. Spudded
swage thru tight spot. POOH. RU 4 3/4"
swage & RIH. Spudded thru & ran to ± 40'.
POOH. PU 4 3/4" tapered mill, milled thru
tight spot, milled out scale to 62'. POOH.
RIH w/ 4 11/16" OS, hung up on scale @
80'. POOH & RU 3 5/8" OS & RIH. Latched
onto tbg, pld 25' tbg w/72,000# over strg
wgt, OS stripped off. POOH w/OS. Grapples
broke. SDON.

RC: \$1782 Mud: \$6138
DC: \$7920 CWC: \$60,259

3/16/81 Bled off well. Well flwg 1"
stream of holt salt wtr. RIH w/ 3 5/8"
OS, latched onto tbg. Pulled 200' of
tbg very slowly w/60,000# over strg wgt,
got tools & fsh out of hole. LD tools.
POOH w/remainder of tbg & pkr seal assy,
top 1200' of tbg was corroded w/holes
as large as 3/4" in diameter. SDON.

RC: \$2284 Dialog: \$700
DC: \$2984 CWC: \$63,243

3/17/81 RU McCullough. RIH w/450" gauge
ring, stacked out @ 28'. Worked thru &
stacked out @ 60' couldn't get any deeper.
POOH. RIH w/4 1/4" csg inspection tool, stack
ed out @ 28', couldn't work thru. POOH.
RIH w/3 1/4" Caliper, stacked out @ 28',
worked thru to 68', stacked out, worked
thru to 80', stacked out, couldn't get any
deeper. POOH. PU 4-3/4" tapered mill.
RIH to 1200', no obstruction. POOH w/
mill. RIH w/ 4.50 inspection tool, could-
not get below 28'. POOH. RIH w/ tapered
mill, worked on bad csg. Rotated mill out
of hole to line up csg. RIH w/ 4 1/4" Calipe
to 850' w/no obstructions. Logged csg fr
850' - surf, shows bad pipe fr 450' to sur
all 17# N-80 csg pitted & has 3-4' split o
ptd @ 28'. SDON.

RC \$1538 McCullough \$850
DC \$2388 CWC \$65,631

3/18/81 Ran 3 1/2" inspection tool & 4 1/4"
Caliper, stacked out @ 4894'. Logged csg
to surf. Csg looks good except for top
400'. RIH w/4 11/16" Chemical cutter, cut
csg off @ 402'. Remv BOP & csg spool. RIH
w/ csg spear & latched on top jt of csg.
Pulled 70,000# on csg, slid 1' up 3 slips
couldn't get slips out of head. Instl BOP
& SDON.

RC: \$1368 McCullogh: \$1100 (est)
DC: \$2468 CWC: \$68,099

Grace Petroleum Corporation
Subsidiary of W.R. Grace & Co.
Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EPU #110XD
Sec. 10-T28N-R51E
660' FEL & 1525' FSL
Roosevelt Co., MT
East Poplar Field
TD: 6435' Miss Cany
GPC WI = 100%
AFE Pending

GPC
Contr: Gibson
WOSD: 2/27/81
LCS:
GL:
KB:
DF:

3/19/81 Remove BOP. RIH w/csg scrpr. Latched onto top jt of csg. POOH w/top jt & csg slips. Csg ptd below 1st clr. RIH w/spear & latched onto 2nd jt csg. Pulled w/70,000# tension on csg, didn't come free, had 6 1/2" of stretch. Pulling w/tension from 10,000-60,000#. Threaded McCullough line thru spear, attached chemical cutter. Latched onto csg w/spear. RIH w/cutter. Cut @ 406', wkd csg, couldn't free. POOH w/spear & McCullough tools. Ran FP, fnd csg free @ 400'+. RD McCullough & reset BOP. SDON.

RC: \$1506 McCullough: \$4182
Csg Crew: \$1315
DC: \$7003 CWC: \$75,102

3/20/81 Set off BOP. PU inside csg cutter. RIH to 424', made cut. POOH w/cutter. PU csg spear. RIH & latch into csg, couldn't pull. POOH w/spear. PU csg cutter, RIH to 429', pld w/70,000#, wkd pipe moved 3/4", have 8" stretch, pulling fr 8000-70,000#. PU 4-3/4" tapere mill & 5 1/2" scrpr RIH to 400', hit tight spot @ 90-100', fell thru, POOH w/tools. PU mill & csg scrpr, tried to RIH, stacked out @ 65' on outside of 5 1/2" csg. PU tools to top of 5 1/2" csg, wouldn't GIH. POOH w/tools set on BOP. SION.
RC \$1716 Csg Crew \$1315 DC \$3031
CWC \$78,133

3/21/81 PU tapered mill & RIH on 3 stds of tbg, wkd inside of 5 1/2" csg stub. Instl csg spear on string, ran spear to 62' dpt, set spear, jarred on csg for 2 hrs, pulling fr 40-110,000# over wgt, pipe came free. POOH to spear, had to cut spear out of csg w/welder LD 428' csg, instl BOP. SDON.
RC: \$1500 (est) Csg Crew: \$1750
DC: \$3250 CWC: \$81,383

3/22/81 RU to run csg. RIH w/Bowen pkr type csg patch on 5 1/2", 17#, L-80 csg. Latched onto csg stub @ 428'. Pulled w/85,000# tension on csg, set slips & pack off. WO BP to test csg, didn't arrive. SDON.
RC: \$1506 Bowen Patch \$25
Csg Crew: \$1750
DC: \$3281 CWC: \$84,664

3/23/81 SD over Sunday.

3/24/81 PU pkr & tbg & RIH. Set pkr @ 1200' dpt. Started press up. Wtr circ. Started back in hole tstg circ each time until pkr set @ 650' dpt.
DC: \$3455 CWC: \$84,838

3/25/81 RIH & set BP @ 1984'. RIH w/pkr & set @ 1529', pipe chkd good. Pull up hole to 1405', pipe good; pull up hole to 1276', pipe good; pull up to 1035', pipe good; pull up hole to 793', pipe leaked, RIH TO 913', pipe good. Pull up hole to 883', pipe leaked. POOH w/pkr, RIH & moved BP to 882'. RIH w/pkr to 809', pipe leaked. RIH TO 871', pipe leaked. SION.
RC: \$2282 Halliburton: \$2281
DC: \$4563 CWC: \$89,401

3/26/81 RIH & latched onto RBP, rels BP & POOH. LD pkr & BP. PU Model "D" pkr seal assy. RIH to 5700' w/no obstruction, tbg started stacking out, hooked up circ pmp, couldn't pmp dn tbg, couldn't get circ dn csg, pull 4 jts tbg, couldn't circ. POOH to 4600', estab circ dn tbg & up csg, circ 20 min. SDON.
RC: \$2205 Halliburton \$343
Vac Truck \$338
DC: \$2886 CWC: \$92,287

Grace Petroleum Corporation
Subsidiary of W.R. Grace & Co.

Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EPU #110XD
Sec. 10-T28N-R51E
660' FEL & 1525' FSL
Roosevelt Co., MT
East Poplar Field
TD: 6435' Miss Cany
GPC WI = 100%
AFE Pending

GPC
Contr: Gibson
WOSD: 2/27/81
LCS:
GL:
KB:
DF:

3/27/81 Washed tbg dn to pkr, circ press
went btwn 500 & 700 psi while wishing dn,
tbg would drag when PU wgt, probable
scale or dry mud fr 5800-4600', stung
into pkr. Remove BOP. NU Xmas tree, started
inj tst, could only get 2/10 BPM @ 700-
1200 psi, will have to acd well. SDON.
RC: \$2200 (est) CWC: \$94,487

3/28/81 RU HOWCO, pmpd 1000 gal 15% MCA.
3.9 BPM @ 1500 psi, broke back to 200 psi
when acid hits form. Let set 1 hr, flowed
back 200 bbls wtr, acid wtr & mud to pit.
Established inj rate 2.6 BPM @ 800#, 1.2 @
450#, 1.5 @ 500#. RD HOWCO. SWI, RD MOL.
RC: \$1644 Howco: \$2098

3/29/81 - 3/30/81 SI over weekend.

3/31/81 Will put on injection today.

4/1/81 Pmpg wtr @ 720 psi. FINAL REPORT.



Petroleum Corporation
Subsidiary of W.R. Grace & Co.

Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EPU 110-XD Document #2m

EPU 110XD

Sec 10, T28N-R51E
660' FEL & 1525' FSL
Roosevelt Co., MT
E. Poplar Field

GPC
Gibson Well Serv.
WOSD: 9/22/81
5½" @ 7359'
RKB 2104'

TD 7360' Nisku
GPC WI = 100%
AFE #G-81-WIR-90027
AFE CC \$48,800

9/22/81 FIRST REPORT

MI & RU Gibson Well Service. SION.
DC: \$798

CWC: \$798

9/23/81 Mixed 75 bbls, 100#, 45 Vis mud, pmpd 38 bbls down tbg, tbg dead. Circ 35 bbls mud down 5½" & up 10-3/4" surface pipe, 5½" csg dead, 10-3/4" still has 1" wtr flow. SDON
DC: \$9354

CWC: \$10,152

9/24/81 Circulate 10# mud down 5½" casing & up 10-3/4" casing. Couldn't kill 10-3/4" casing. Removed Xmas tree. Installed casing spool & BOP. Wait on bolts for 5½" rams. Stung out of packer. Pull out of hole with tubing & packer seal assembly. Found numerous joints of tubing plugged with mud. SDON.
DC: \$5061

CWC: \$15,213

9/25/81 RIH with Baker Model C 5½" RBP, set @ 1163'. Pull out of hole with tubing. Strip off BOP. Welded pulling nipple on 5½" casing. Pulled with 120,000# on casing. Moved casing only 3", while removing slips from 5½" dropped 2 slip dogs down between 5½" & 10-3/4" pipe. Stripped off BOP. Rig up McCullough, ran free point. Found pipe free @ 685', 955', 60% free @ 1020', 50% free @ 1060'. Rig down McCullough. Closed well in. SDON.
DC: \$7355

CWC: \$22,568

9/26/81 Land 5½" csg. Cut off pulling stub, set BOP. RIH w/ tbg. Open ended to 1160'. Circ hole w/ salt wtr. Spot 3 sxs sand on plug. POOH w/ tbg. PU 5½" squeeze pkr. RIH & set @ 401'. RU Halliburton. Squeeze w/ 100 sxs Class "G" cmt w/ 2% CaCl. Pump 2 BPM @ 150 psi. Reversed out. POOH w/ tbg & pkr. SION.
DC: \$6552

CWC: \$20,120

9/27/81 Press 5½" csg to 1000 psi for 15 min. PU & RIH w/ 4-3/4" bit, 5½" csg scraper, 4 DC's & tbg to 350'. Start drlg cmt @ 350' to 575', poor cmt, wash cmt to 615'. Circ hole down. POOH w/ tbg & tools, closed blind rams on BOP. Try to press 5½" csg. Circ btwn 5½" to 10-3/4", no squeeze. Closed off 10-3/4" surf pipe & pump @ 2-3BPM @ 250#. SION.
DC: \$3335

CWC: \$32,455

9/28/81 SD over Sunday.



Grace Petroleum Corporation
a subsidiary of W.R. Grace & Co.

Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EPU #110XD
Sec 10, T28N-R51E
660' FEL & 1525' FSL
Roosevelt Co., MT
E. Poplar Field

GPC
Gibson Well Serv.
WOSD: 9/22/81
5½" @ 7359'
RKB 2104'

TD 7360' Nisku
GPC WI = 100%
AFE #G-81-WIR-90027
AFE CC \$48,800

9/29/81 Run in hole with 5½" squeeze packer, set @ 405'. Rig up Halliburton, establish injection rate of 1 BPM @ 1200 psi. Squeeze with 200 sxs Class "G" cement @ 1 BPM @ 1200 psi, slowed down to ½ BPM on last 6 sxs. Clear packer with water. SI for 5 min, pump ½ bbl, SI 15 min, pump ½ bbl, SI 35 min, pump ½ bbl, SI 23 min, pump 1 bbls, SI 30 min, reverse out tubing with 5 bbls water. Release packer. Rig down Halliburton. Pull out of hole with tubing & packer. SDON.

DC: \$7145

CWC: \$39,600

9/30/81 Pressure 5½" cst to 1000#, dropped to 900# in one minute. Held @ 900 for 15 min. PU 4-3/4" bit, scraper, 4 - 3" DC's. RIH on 2-7/8" tbg. Tag cmt @ 305'. Drld good cmt to 610', stringers to 727', good cmt to 845', stringers to 872', good cmt to 900'. Open hole to 965'. Circ hole clean. POOH w/ tbg & tools. Closed blind rams. Pressure 5½" csg to 400#, will take ½ BPM @ 400#. No squeeze. SION.

DC: \$2931

CWC: \$42,531

10/1/81 Picked up Baker Model "C" packer, RIH & set @ 403'. Hooked up Halliburton. Tested lines & packer OK. Pumped 10 bbls fresh water @ 1½ BPM, 1000 psi. Mixed & pumped 200 sxs Class "G" cement @ 1 BPM, 600 psi. Displaced with 4 bbls fresh water @ ½ BPM, 550 psi. Shut down 25 min. Pumped ½ BPM @ 800 psi. Shut down 18 min. Pumped ½ BPM @ 600 psi. Shut down 30 min. Pumped ½ BPM @ 700 psi. Shut down 28 min. Pumped ½ BPM @ 800 psi. Shut down 29 min. Pumped 1/8 BPM, well pressured to 1000 psi & held OK. Released pressure, no flowback, squeeze held. Released packer, reversed out tubing. Pull out of hole with tubing & packer. SDON.

DC: \$7400

CWC: \$49,931

10/2/81 PU 4-3/4" Bit, 4 - 3½" DC's, RIH, tagged cmt @ 436'. RU drlg equip, drld firm cmt from 436'-970', dropped free. Circ hole clean. Started out of hole w/ tbg & tools. SDON.

DC: \$3655

CWC: \$53,586

10/3/81 RIH w/ bit & scraper & tbg to BP. Circ hole clean. POOH w/ tbg & tools. Press 5½" csg to 1000# for 30 min. RU & pump down surface pipe @ ½ BPM, 150#. PU fishing tools & RIH to fish BP. POOH w/ tbg. Lost BP on way out of hole. RIH & fish. POOH w/ tbg & plug. SION.

DC: \$3231

CWC: \$56,817



Grace Petroleum Corporation
A subsidiary of W.R. Grace & Co.

Three Park Central Suite 200
1515 Arapahoe Street
Denver, Colorado 80202
Phone (303) 825-8193

EPU #110XD

Sec 10, T28N-R51E
660' FEL & 1525' FSL
Roosevelt Co., MT
E. Poplar Field

GPC

Gibson Well Serv.

WOSD: 9/22/81

5 1/2" @ 7359'

RKB 2104'

TD 7360' Nisku

GPC WI = 100%

AFE #G-81-WIR-90027

AFE CC \$48,800

10/4/81 RIH w/ bit & scraper, collars & tbg to 5670'. Scale fillup. RU power swivel & drill scale to 5780'. Circ hole clean. RD swivel. POOH w/ 31 jts tbg. SION.
DC: \$3300

CWC: \$60,117

10/5/81 SD over Sunday.

10/6/81 Fin POOH w/ tbg & tools. RU Halliburton to 10-3/4" surface pipe. Pump 200 sx Class "G" 3% CaCl cmt down surface pipe @ 2.5 BPM, 250#. RD Halliburton. SI for 2 hrs. RIH w/ seal assembly & tbg, sting into pkr, started floweing up tbg. SION.
DC: \$6867

CWC: \$66,984

10/7/81 Pump 200 bbls heavy salt water down tbg. Strip off BOP, strip on bottom spool & Xmas tree. Flange up wellhead, tie in pump line. Put on injection @ 12:00 Noon.
DC: \$2180

CWC: \$69,164

10/8/81 RD & MOL.
DC: \$280

CWC: \$69,444

10/9/81 RD & MOL. CWC: \$69,444 Supplement required: YES FINAL REPORT.

WELL: EPU #110-XD PROSPECT: E. Poplar PTD:
 OBJECTIVE: Mission Canyon OPERATOR: GPC CONTRACTOR: Allison Well Serv.
 LOCATION: NE SE Sec. 10, T28N-R51E, Roosevelt Co. MT WORKOVER DATE: 4/30/85
 AFE NO: AFE DHC: \$ AFE TWC: \$ WI: 100%
 CASING: (Size & Depth): 10-3/4" @ 908', 5-1/2" @ 7359'
 ELEVATION: GL DF KB 2104' DEPTH: TD 7360' PBD 7000'

5/6/85 SI

5/7/85 Operation @ report time - TIH.

Pick up retrievable tool, TIH to 5760'. Circulate sd off BP, release plug. Well kicked & started flowing salt wtr. Kill well w/10# brine. TOH to 4113', well kicked & flowed salt wtr, kill well. Complete trip out of hole w/tools. Lay dn tools. TIH to 2780' & SIFN. Costs: Rig \$1,488, Tools \$275, Water \$826, Supervision \$450, Misc. \$100.

DWC: \$3,139 CWC: \$26,321

5/8/85 Operation at report time - SI

TIH to 5800', sting into Model 'D' pkr. Pump into formation @ 1-1/2 BPM @ 165#. TOH, lay dn pkr assy. TIH w/E2 drill retainer & set @ 5780'. Cement w/100 sxs Class 'H' & 50 sxs Class 'G' standing sq. of 500#. TOH w/retainer stinger & lay dn. TIH w/172 jts 2-7/8" tbg & set @ 5375'. Nipple up WH & RD. Temp. SI.

Costs: Rig \$1,513, Tools \$1,137, Cement \$3,311, Water \$504, Supervision \$450, Misc. \$100.

DWC: \$7,015 CWC: \$33,336

5/9/85 SI until further activity.

5/16/85 Operations at report time - preparing to P&A well. MIRU Allison Well Service Rig #7.

Costs: Rig \$1,142.50, Rentals \$125, Welder \$90, Supervision \$500, Trucking \$280.

DWC: \$2,137 CWC: \$2,137

5/17/85 Operations @ report time - digging out cellar. SITP 0, SICP 0. RU rig - nipple down tree, nipple BOP. PU 10 jts 2-7/8" tbg. RIH to ± 5600'. Circ. hole w/10# per gal mud. POOH w/2-78" tbg & lay dn. RIH to 1002'. Spot balanced Class 'G' cement plug 1002' to 802' (25 sxs). POOH & spot top plug (12 sxs) Class 'G' cement 99' to surface. RD Howco, RD well service unit. Place 34 sxs Class 'G' cement plug in 10-3/4" x 5-1/2" csg annulars - approx. ± 100'. Move off well service rig.

Costs: Rig \$1,225, Water & Trucks \$1,268, Howco \$2,900, Rentals \$175, Supervision \$500.

DWC: \$6,068 CWC: \$8,205

WELL: EPU #110-XD PROSPECT: E. Poplar PTD:
OBJECTIVE: Mission Canyon OPERATOR: GPC CONTRACTOR: Allison Well Serv.
LOCATION: NE SE Sec. 10, T28N-R51E, Roosevelt Co. MT WORKOVER DATE: 4/30/85
AFE NO: AFE DHC: \$ AFE TWC: \$ WI: 100%
CASING: (Size & Depth): 10-3/4" @ 908', 5-1/2" @ 7359'
ELEVATION: GL DF KB 2104' DEPTH: TD 7360' PBDT 7000'

4/30/85 FIRST REPORT MIRU mud tank, pump, swivel, BOP & rig.
Costs: Rig \$700, Supervision \$900, Bit \$400, BOP \$1,068, Misc. \$250
DWC: \$3,318 CWC: \$3,318

5/1/85 RU workover rig. Kill well w/10# brine water. Pull 2-7/8" tbg (5799.64'). Lay dn seal assy. Pick up Baker retrievable bridge plug Model G and set @ 5770'. SIFN
Costs: Rig \$1,350, Tools \$1,304, Water \$675, Supervision \$450, Misc. \$150
DWC: \$3,929 CWC: \$7,247

5/2/85 Operation @ report time, testing csg. Pulled tbg & setting tool. Ran bit (4-3/4") and csg scraper to 5765', circulated hole clean. Pulled bit & scraper. Ran Baker retrievable BP & pkr. Set plug @ 5750', pkr @ 5740'. Test plug to 500# 15 min ok. Pull pkr to 5540', test to 500# 15 min ok. Pressure csg to 350# & taking fluid @ 1-1/2 BPM. SIFN
Costs: Rig \$1,290, Tools \$2,519, Water \$695, Supervision \$450, Misc. \$150
DWC: \$5,104 CWC: \$12,351

5/3/85 Operations @ report time - testing csg. Pull pkr to 5334' test to 500# ok. Pull pkr to 5150' test to 500# ok. Pull pkr to 4967' test to 500# ok. Pull pkr to 4763' test to 500# ok. Pull pkr to 4643', circulated by pkr. Locate hole @ 4736'. Continue to test, located second hole @ 4456'. Move pkr up hole trying to locate top most hole.
Costs: Rig \$1,143, Tools \$361, Water \$675, Supervision \$450, Misc. \$100.
DWC: \$2,729 CWC: \$15,080

5/4/85 Located holes at 4700', 4456', 4404', 4320', 4263' (bridge plug failed). POOH w/tools. Lay down all tools. Pick up fullbore pkr & Model C retrievable BP & RIH. Continue testing csg. Located holes at 4158', 3975', 3950', 3625', 3290', 3220', 2786' (bridge plug failed). POOH w/tools. SIFN
Costs: Rig \$1,513, Tools \$2,140, Water \$750, Supervision \$450, Misc. \$100.
DWC: \$4,953 CWC: \$20,033

5/5/85 RIH w/tools, continue testing csg. Located holes at 2726', 2495', 2315', 2080', 1973', 1765', 1500', 1344', 1130'. POOH w/tools. Dump 2 sks 20/40 sd on retrievable BP @ 5770'. Run 3 stds in hole & SI.
Costs: Rig \$773, Tools \$1,376, Water \$450, Supervision \$450, Misc. \$100.
DWC: \$3,149 CWC: \$23,182

- October 21, 1984 - Kill well, PU bit & scrapper. RIH w/ tbg. to 5690'. Hooked up lines to pump and cleaned out to top of packer. POOH w/ tbg. and scrapper and layed down. RIH w/ kill string and SDON.
- October 23, 1984 - Kill well, POOH w/ kill string (17 jts.). Make up packer & RIH w/ tbg. checking casing. Found hole @ +1200', POOH w/ packer, RIH w/ seal assemble w/ 189 jts. 1-10' & 6' sub. Removed BOP, set seal, flange up well head. RD rig & clean up loc. MOL.
DWC: \$2802.00 CWC: \$24,246.00 (est.)
- October 29, 1984 - MIRU Allison Well Service. POOH w/ tbg. & seal assemble. Well flowing. SDON.
DWC: \$1094.00 CWC: \$27,009.00
- October 30, 1984 - RIH w/ bridge plug & packer (having trouble setting packer). RU mud pump & start testing casing for holes. SDON.
DWC: \$2302.00 CWC: \$29,311.00
- October 31, 1984 - Unflange well. Well started flowing, man got hurt, SDON.
DWC: \$695.00 CWC: \$30,006.00
- November 1, 1984 - Installed BOP, setting bridge plug & packer, checking for holes (holes approx. 4700', 4400', 4100', 3983'). SDON.
DWC: \$2060.00 CWC: \$32,066.00 (well keeps flowing)
- November 2, 1984 - Continue setting bridge plug & packer. Holes @ 3950', 3600', 3300', 3200', 2850', 1200'. POOH w/ tools. SDON.
DWC: \$2420.00 CWC: \$34,486.00
- November 3, 1984 - RIH w/ tbg. open ended w/ 184 jts. Removed BOP, flange up well head, RDMO.
DWC: \$2259.00 CWC: \$36,745.00
- February 14, 1985 - MIRU Allison Well Service. Kill well w/ 400 bbls. brine. Install BOP. SDON.
DWC: \$2965.00 CWC: \$2965.00
- February 15, 1985 - Kill well, POOH w/ 184 jts. of tbg. RIH w/ Model G 48" Stinger seal assembly (OD 2.87" ID 1.968) & 188 jts. of 2 7/8" tbg. Flange up. SDON.
DWC: \$2330.00 CWC: \$5295.00
- February 16, 1985 - Pressured up back side w/ 300#, in 15 min. drop to 125#, in 30 min. to 50#, 45 min. to 30#, 60 min. to 25#, RDMOL.
DWC: \$1900.00 CWC: \$7195.00

WELL WORK

EPU 110-XD, East Poplar Field, Roosevelt County, MT
 NESE Section 10, T28N, R51E
 10 3/4" 32# surface pipe to 908'
 5 1/2" 14, 15.5 & 17# csg. to 7360' w/ CIBP @ 7000'
 Perfs @ 6286-94', 6304-16', 6330-35', 6359-61', 6376-84'

Summary: EPU 110-XD is the normal disposal well for the Huber wells with average injection psi @ 430# and average of 1830 BWPd.

- October 12, 1984 - Integrity test was performed by simply applying surface annular pressure (wouldn't hold, tbg. or packer bad). Tested by Grace pumper.
- October 15, 1984 - J.W. Gibson Well Service moved from Goings to location & RU.
 DWC: \$350.00 CWC: \$350.00
- October 16, 1984 - Hauled in salt water and pumped down well @ 500 psi to kill well. Unflange well head and tried to release packer. Would not release, also wrap around on tbg. @ well head stuck, worked w/ most of day. Casing started flowing again and water getting hot. Installed BOP and secured well for night.
 DWC: \$2160.00 CWC: \$2510.00
- October 17, 1984 - Hauled in 400 bbls. of brine to kill well - pumped 100 bbls. down each side, worked w/ wrap around and got it free. Started working w/ tbg. Worked 3 1/2 hrs. w/ tbg. to release seal assemble on packer. Came loose and started POOH w/ 2 7/8" tbg. POOH w/ 19 stands, then tbg. was bad, had holes all in it. Layed down 40 jts. of bad tbg. and the well blew in. SDON.
 DWC: \$2880.00 CWC: \$5390.00
- October 18, 1984 - Hauled in 400 bbls. brine, pumped 100 bbls. down each side. Finished POOH w/ tbg. & laying down. Layed down 119 1/2 jts. RIH w/ 17 stands to use as kill string (tbg. was parted w/ +31 1/2 jts. in hole). Closed well in.
 DWC: \$1847.00 CWC: \$7237.00
- October 19, 1984 - POOH w/ 17 stands of tbg., PU fishing tools. Kill well w/ brine, PU 132 jts. of good tbg. & SDON (waiting on new tbg.). Fishing tools: 4 1/2" OD over shot, w/ CAT lip guide, 2-4 1/2" wash pipe X-0, 1 - Bumper sub, hydraulic jars, X-0, 5 - 3 1/2" drill collars.
 DWC: \$4100.00 CWC: \$11,337.00
- October 20, 1984 - Kill well w/ brine, PU & RIH w/ 38 jts. of tbg. Tagged fish, worked over shot on fish, pulled & jarred @ 64K, jarred for 1 1/2 hours. Fish started to come, stopped jarring & pulled @ 30K over string weight for 7 stands, fish came free. POOH w/ fish (29 jts. plus 12'). RIH w/ collars & POOH laying down. SDON.

DRILLING REPORT

EPU 110-X Well
T28N-R51E-10
East Poplar Unit
Roosevelt County, Mont.

EPU 110-XD Document #4

5/1/69	Rigging up.
5/2/69	Rain has shut down rigging operations. Estimated spud date Monday, May 5, 1969.
5/5/69	Still waiting on weather conditions to clear.
5/6/69	Rigging up. Latest expected spud date Wednesday, May 7, 1969.
5/7/69	Still rigging up. Expect to spud overnight.
5/8/69	Rigging up. Will spud at noon.
5/9/69	Spudded at 8 a. m. this morning. Drilling surface hole. Depth 20 feet.
5/10/69	Drilling 15" hole at 832'.
5/11/69	Total depth 922'. 10 3/4" casing set at 908' with 365 sacks of cement, 65-35 poz mix, 2% calcium chloride, and 2 1/4% floreal. Followed with 200 sacks of regular cement, 2% calcium chloride, 2% floreal. Circulated cement. 10 barrels of good cement circulated out on surface. Completed job at 5:15 a. m. 5/11/69.
5/12/69	Total depth 922'. Nippled up. Blow-out preventor set. Preparing to drill out from under surface.
5/13/69	Drilling at 2300'. Deviation survey 3/4° at 1881.
5/14/69	Drilling 3383' - 4th bit. Directional survey 2364' 3/4 of 1°.
5/15/69	Drilling at 4000'. Mudded up on grave yard shift.
5/16/69	Drilling at 4503'. Bit #5. Directional Survey 4102'. 1 1/2°. Mud information: Weight 9.6 Vis. 36 Water Loss 11.6 PH 6.2
5/17/69	Drilling at 4725'. Mud weight 9.9 Vis. 38 Water Loss 11.6 pH 6.2 7% oil. Directional survey 4568' 1° from vertical.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ONE DENVER PLACE — 999 18TH STREET — SUITE 1300
DENVER, COLORADO 80202-2413

DEC 30 1985

REF: 8WM-DW

William F. Baswell, III
Operations Engineer
Grace Petroleum Corporation
143 Union Blvd., Suite 760
Lakewood, Colorado 80227

RECEIVED

JAN 2 1986

GPO ROCKY MOUNTAIN
REGION OPERATIONS

RE: ANNOUNCEMENT OF DECISION
Underground Injection Activities
into the Judith River Formation

Dear Mr. Baswell:

As you know, a public hearing was held in Poplar, Montana, on May 29, 1985, to hear testimony regarding our intent to issue a permit for the Goings No. 1 SWD Well. Another issue surrounding our intent to issue this permit, was whether or not EPA should allow other salt water disposal wells to inject into the Judith River Formation.

The Region VIII Office of the Environmental Protection Agency is hereby rendering a decision concerning certain injection activities on the Fort Peck Reservation. A public notice will appear soon in the Billings Gazette and the Wolf Point Herald announcing that EPA has issued the final permit for the Goings No. 1 SWD Well, and that a Statement of Policy has been developed concerning injection into the Judith River Formation on the Fort Peck Reservation.

Enclosed are copies of the public notice and our Statement of Policy. Should you have any questions on either subject, please address them to the appropriate person as identified in the enclosed material.

Sincerely,

Max H. Dodson, Director
Water Management Division

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ONE DENVER PLACE — 999 18TH STREET — SUITE 1300
DENVER, COLORADO 80202-2413

Statement of Policy

Injection activities into the Judith River Formation
on the Fort Peck Reservation

BACKGROUND

EPA published a notice on December 27, 1984, in the Wolf Point Herald stating an intent to issue two Underground Injection Control (UIC) permits to Century Oil & Gas for the purpose of salt water fluid disposal. EPA encouraged public comments on the proposed actions. A notice appearing on January 15, 1985, extended the deadline for public comments on EPA's intended actions until February 15, 1985.

In a letter of January 29, 1985, the Fort Peck Tribes objected to the issuance of one of the two draft UIC permits which would allow injection through the Goings No. 1 Well. The objection was based on the Tribe's overall concern about the degradation of ground water on the Reservation. The Goings No. 1 Well is one of several injection wells which presently disposes of fluids into the Judith River Formation - an aquifer which the Tribe has requested be protected as an underground source of drinking water (USDW). The UIC regulations broadly define a USDW as an aquifer or its portion which both: 1) contains fewer than 10,000 mg/l total dissolved solids (TDS), and 2) is capable of supplying a public water system.

The Tribe subsequently requested a public hearing in order to present relevant information which would substantiate their request to preserve the Judith River Formation. The hearing was held on May 29, 1985, at the Poplar Activity Center.

CONCLUSIONS

The testimony and supporting documentation collected at the hearing were evaluated by EPA. The following discussions reflect the results of the technical evaluation and constitute EPA policy.

POLICY
STATEMENT
NO. 1

No new injection wells or converted wells will be allowed to dispose of fluids into the Judith River Formation where the TDS concentration is known to be less than 10,000 mg/l.

Discussion and Basis of Decision

Alternative sources of drinking water are currently available and are being used in the vicinity of the oil production. The principal sources (alluvium and glacial gravels; the Fox Hills and Fort Union aquifers) are located stratigraphically above the Judith River and have significantly higher quality water. The Judith River provides water for livestock use near the cities of Wolf Point and Glasgow. However, there are no known drinking water wells producing from the Judith River near any injection wells located in the eastern half of the Reservation.

Although there is no current domestic use of the Judith River aquifer in the eastern half of the reservation, the UIC regulations still afford protection of aquifers which exhibit fewer than 10,000 mg/l TDS. Based upon this authority, EPA adopts the policy to prohibit new injection wells into the Judith River where it is defined as a USDW. By doing so, EPA recognizes the concerns of the Tribe that the Judith River Formation be preserved for future use.

POLICY
STATEMENT
NO. 2

It is concluded that the Judith River Formation in the Deadman's Coulee and Poplar Fields located to the east, is not now, nor was it prior to injection activities, a USDW. The Judith River is also confined from overlying USDWs by 800 to 1,000 feet of shale. The existing injection wells in these fields will be authorized to continue injecting into the Judith River Formation as long as compliance with appropriate EPA rules and permits is maintained. The following injection wells have pending permit applications:

<u>EPA PERMIT</u>	<u>WELL NAME</u>	<u>FIELD</u>	<u>OPERATOR</u>
MTS21PR-0003	Goings No. 1	Poplar	Century Oil & Gas
MTS21PE-0009	Buck Elk No. 2	E. Poplar	Grace Petroleum
MTS21PE-0023	EPU 8-D	E. Poplar	Murphy Oil
MTS21PE-0024	EPU 29-D	E. Poplar	Murphy Oil
MTS21DM-0034	Allotted Hall	Deadman's Coulee	Reading & Bates

Discussion and Basis of Decision

Little water quality data are available for the Judith River Formation in the areas where most of the injection wells are located. However, a water analysis of a sample taken (prior to injection) from the Allotted Hall salt water disposal well, Deadman's Coulee Field, showed a TDS concentration greater than 10,000 mg/l. This sample was found to be reliable, based upon evaluation of the sampling technique. It is known that the formation downdips to the east and that TDS quality of the Judith River Formation increases from west to east. Therefore, the Judith River underlying the Poplar Field would also not qualify as a USDW.

Testimony presented by the Tribe asserted that injection fluids in the Poplar field may be forced to migrate updip and to the west (possibly to the far western edge of the Reservation) due to the fact that the Judith River Formation becomes pinched off by the Bearpaw Shale in the eastern portion of the Reservation. Pressure buildup effects, extending up to eight miles, may influence the natural ground water flow pattern. However, from evaluation of the data, ground water flow reversal is not likely to exceed more than two miles from any wellbore.

A more significant impact than a reversal in ground water flow, is likely to be a flattening of the pressure gradient in the Judith River Formation. This may indirectly affect the residence time of the native fluids migrating west to east, thereby increasing the TDS concentration. However, it is not possible to estimate any direct impacts.

POLICY
STATEMENT
No. 3

Existing injection wells, in fields other than Deadman's Coulee and Poplar, will be allowed to continue injection activities so long as: 1) they maintain compliance with EPA rules and pending permit conditions, and 2) they do not inject more fluid than can be contained in that portion of the Judith River which has been exempted as a USDW. It is EPA's decision to limit injection in these fields to the existing 1/4-mile aquifer exemption radius. This will be done by limiting the life of individual injection wells through the permitting process.

The following wells have pending permit applications or operators have been requested to submit permit applications:

<u>EPA PERMIT</u>	<u>WELL NAME</u>	<u>FIELD</u>	<u>OPERATOR</u>
MTS21TC-0039	Lough No. 2	Tule Creek	Petro Lewis Corp.
MTS21TE-0035	Lillian 1-D	East Tule Creek	Murphy Oil
MTS21TC-0036	Sletvold	Tule Creek	Murphy Oil
MTS21LS-0038	Mann No. 1	Long Creek	Pennzoil
MTS21TC-0086	Phillips-McKee	Tule Creek	BHP Petroleum
	Wetsit No. 1	East Benrud	Murphy Oil
	Courchene 1-D	Volt	Murphy Oil
	Stai No. 1	East Benrud	Franks Petroleum

Discussion and Basis of Decision

Other fields where injection into the Judith River Formation is occurring are the Tule Creek, E. Tule Creek, Benrud, E. Benrud, Volt, and Long Creek. These fields lie west/northwest of the Deadman's Coulee and Poplar Fields and there is evidence that the Judith River Formation here may have contained fewer than 10,000 mg/l TDS before injection practices began.

The UIC regulations specifically prohibit injection into USDW's unless the aquifer is exempted. An aquifer exemption may be granted by EPA, and essentially allows injection into a formation which would otherwise be classified as a USDW but which is not likely to serve as a source of drinking water. All of the wells injecting into the Judith River Formation were granted aquifer exemptions for 1/4 mile radius from the wellbore at the inception of the UIC program in Montana on June 25, 1984. Notice of these aquifer exemptions was published in the FEDERAL REGISTER on September 2, 1983.

Using Judith River Formation characteristics and operating parameters for all the wells, calculations were done to determine the extent of formation fill-up from salt water disposal practices. These calculations are an estimate of how far the injection fluids have traveled from each wellbore. A factor of 25 percent was used in the calculations to safely accommodate uncertainty and pore volume inaccessibility to injected fluids.

In certain instances, injection wells have already surpassed the fill-up volume allowed by their authorized 1/4-mile aquifer exemptions. Permits for these wells will be denied and the operator will be required to properly plug and abandon the wells.

FOR MORE INFORMATION

EPA's technical evaluation report, the transcript of the hearing, and other pertinent documents, are available for inspection at the following locations:

Environmental Protection Agency
Region VIII
Drinking Water Branch 8WM-DW
One Denver Place, Suite 1300
999-18th Street
Denver, Colorado 80202-2413
Telephone: (303) 293-1415

Environmental Protection Agency
Montana Office
Federal Office Building
Drawer 10096
301 South Park
Helena, Montana 59626
Telephone: (406) 449-5486



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

ONE DENVER PLACE — 999 18TH STREET — SUITE 1300

DENVER, COLORADO 80202-2415

PUBLIC NOTICE
UNDERGROUND INJECTION CONTROL PROGRAM

FINAL DETERMINATION

Injection into the Judith River Formation
on the Fort Peck Reservation

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to inform interested parties that:

- (1) the U.S. Environmental Protection Agency (EPA) has developed a policy regarding the issuance of Underground Injection Control (UIC) permits on the Fort Peck Reservation for disposal of fluids into the Judith River Formation; and
- (2) EPA has made a determination to issue a final UIC permit for the Goings No. 1 Salt Water Disposal Well, located in the Poplar Field and operated by Century Oil & Gas.

BACKGROUND

EPA held a hearing on May 29, 1985, upon request of the Fort Peck Tribes, to gather factual information regarding hydrogeologic characteristics of the Judith River Formation, and to allow comments to be heard concerning EPA's intent to issue a UIC permit for continuation of salt water disposal into the Goings No. 1 Well. The Goings No. 1 Well is one of several disposal wells injecting fluids into the Judith River Formation. The Tribe has requested that the Judith River Formation be protected as an underground source of drinking water (USDW). The Goings No. 1 well was injecting prior to the inception of the UIC program (June 25, 1985), and is therefore classified as an existing well authorized by rule.

FINAL DECISIONS

A statement has been prepared which establishes EPA's policy on permitting existing and future wells that inject into the Judith River Formation on the Fort Peck Reservation. A copy of EPA's Statement of Policy is being sent concurrently with the publication of this notice to all attendees of the hearing as well as all persons who may be affected by the outcome of such a policy.

In addition, EPA has also made a final permit determination for the Goings No. 1 Well permit application. In the time period since the draft permit was issued in December, 1984, the Goings No. 1 Well failed a mechanical integrity test, was reworked to repair casing defects, and subsequently, passed a retesting of mechanical integrity. It has been determined that the well meets all UIC requirements and does not pose a threat to any underground source of drinking water. Therefore, a final permit is being issued on the date of publication of this notice with no changes from the draft permit. Upon issuance of the permit, authorization to inject into the Goings No. 1 Well will be transferred from rule to permit. This action is consistent with the policy mentioned above.

PERMIT APPEAL PROCESS

Within 30 days after a UIC final permit decision has been issued, any person who filed comments on that draft permit or participated in the public hearing may petition the Administrator of EPA to review any condition of the permit decision. Commentors are referred to 40 CFR 124.19 for procedural requirements of the appeal process.

FOR MORE INFORMATION

The Administrative Record for these actions contains:

- (1) the Goings No. 1 permit application, draft and final permits;
- (2) the official transcript of the hearing;
- (3) EPA's technical evaluation of the testimony presented at the hearing; and
- (4) EPA's Statement of Policy regarding injection activities and the Judith River Formation on the Fort Peck Reservation.

For further information, you may contact the following offices:

A. Concerning the Judith River Policy:

Environmental Protection Agency
Region VIII
Drinking Water Branch 8WM-DW
One Denver Place, Suite 1300
999-18th Street
Denver, Colorado 80202-2413

ATTN: Debra G. Ehlert
Telephone: (303) 293-1415

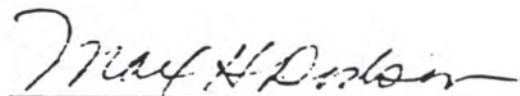
B. Concerning the Going No. 1 Permit:

Environmental Protection Agency
Montana Office
Federal Office Building
Drawer 10096
301 South Park
Helena, Montana 59626

ATTN: Jim Boyter
Telephone: (406) 449-5486

DEC 30 1985

Date of Publication



Max H. Dodson, Director
Water Management Division

BEFORE THE BOARD OF OIL AND GAS CONSERVATION
OF THE STATE OF MONTANA

IN THE MATTER OF THE APPLICATION)
OF THE POLUMBUS CORPORATION FOR)
PERMISSION TO DISPOSE OF SALT)
WATER PRODUCED WITH OIL FROM THE)
EAST POPLAR FIELD, ROOSEVELT COUNTY,))
MONTANA.)

ORDER NO. 10-A-73

ADMINISTRATIVE

In this matter, The Polumbus Corporation, applicant, seeks permission from the Board to dispose of salt water produced with oil in the East Poplar Field, Roosevelt County, Montana.

The application is complete in all respects, the same satisfies all of the provisions and requirements of Board Rule No. 228.3 and all subparagraphs thereunder. All pertinent information concerning said application has been supplied to the Board and the same does not pertain to secondary recovery or a waterflood plan. And it appearing to the Board that the application is in order, the following order is hereby made:

IT IS THEREFORE ORDERED by the Board of Oil and Gas Conservation of the State of Montana that the application of The Polumbus Corporation to dispose of salt water produced with oil in the East Poplar Field, Roosevelt County, Montana, be and the same is hereby approved, and that the applicant be permitted to dispose of said salt water by injection into its existing well designated as:

East Poplar Unit 110-X located 1525' NSL and 660' WEL
Sec. 10, T. 28N, R. 51E
Roosevelt County, Montana

for ultimate disposal into a nonproductive salt water bearing zone in the Mission Canyon Formation.

IT IS FURTHER ORDERED that the Operator file a Sundry Notice and Report of Wells, Board Form No. 2, on the proposed injection well with the Board office in Billings prior to workover of said well converting it to an injection well in the Mission Canyon Formation, and that at such time as injection is commenced that the operator instigate its Report of Sub-surface Injections through the use of Board Form No. 5.

Dated at Helena, Montana this 19th day of March, 1973.

BOARD OF OIL AND GAS CONSERVATION
STATE OF MONTANA

Donald E. Chisholm, Acting Administrator

(Seal)

Form 9-331
(May 1963)UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEYSUBMIT IN TRIPLICATE
(Other instructions on re-
verse side)Form approved.
Budget Bureau No. 42-R1424.

5. LEASE DESIGNATION AND SERIAL NO.

IA 2847 Patented

6. IF INDIAN, ALLOTTEE OR TRIBE NAME

SUNDRY NOTICES AND REPORTS ON WELLS

(Do not use this form for proposals to drill or to deepen or plug back to a different reservoir.
Use "APPLICATION FOR PERMIT—" for such proposals.)

1. ☒ OIL WELL ☐ GAS WELL ☒ OTHER X Water Disposal Well

2. NAME OF OPERATOR
THE COLUMBUS CORPORATION Billings, Montana

3. ADDRESS OF OPERATOR

7. UNIT AGREEMENT NAME

East Poplar Field

8. FARM OR LEASE NAME

EPU

9. WELL NO.

110X

10. FIELD AND POOL, OR WILDCAT

East Poplar-Nisku

11. SEC., T., R., M., OR BLK. AND
SURVEY OR AREA

Sec 10-28N-51E

12. COUNTY OR PARISH

13. STATE

Roosevelt

Montana

14. PERMIT NO.

S-4864

15. ELEVATIONS (Show whether DF, RT, GR, etc.)

2104 RKB

16.

Check Appropriate Box To Indicate Nature of Notice, Report, or Other Data

NOTICE OF INTENTION TO:

TEST WATER SHUT-OFF

FRACTURE TREAT

SHOOT OR ACIDIZE

REPAIR WELL

(Other)

PULL OR ALTER CASING

MULTIPLE COMPLETS

ABANDON*

CHANGE PLANS

SUBSEQUENT REPORT OF

WATER SHUT-OFF

FRACTURE TREATMENT

SHOOTING OR ACIDIZING

(Other) Recomplete as wtr. Disp. well

(NOTE: Report results of multiple completion on Well
Completion or Recompletion Report and Log form.)

17. DESCRIBE PROPOSED OR COMPLETED OPERATIONS (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work. If well is directionally drilled, give subsurface locations and measured and true vertical depths for all markers and some pertinent to this work.)*

Squeezed Perfs 7266-69 & 7284-86 W/75 sx class G cement. Squeezed 25sx thru perfs to 3000 psi standing pres. Left 25 sx in csg. from perfs up to 7072 depth reversed out 25sx. Set Cast Iron Bridge Plug at 7000' Depth on wire line. Perforated 2 shots per foot from 6359-61, 6376-84, 6430-35, 6286-94, & 6304-16. Well flowed hot salt water at 250 B.P.H. Killed well and ran tubing to 6252' depth. Put 80Bbls. treated oil in annulus to protect back side. Acidized with 1000 gals. of 15% acid & 1000gals. of 28% acid. Injection rates 4 B.P.M. at 900 psi, 2 B.P.M. at 400 psi. ISI after acid job 250 psi surface.

18. I hereby certify that the foregoing is true and correct

SIGNED E. A. HIGGINSTITLE Mgr. Drlg. & Prod.DATE 10-11-73

(This space for Federal or State office use)

APPROVED BY Charles L. Paul
CONDITIONS OF APPROVAL, IF ANY:TITLE ENGINEERDATE NOV 16 1973

*See Instructions on Reverse Side

EXHIBIT B

(SUBMIT IN TRIPLIC.

GOING GOV'T #1 Document # 1

DATE 10.22.201
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of Sept. 19 84Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cummulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	46,381 <i>BLM - 46,381</i>	3,053.426	Vacuum
TOTALS					46,381	3,053,426	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Susan Ellis
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of OCTOBER 19 84Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbis, MCF, gals	Cummulative Inj. bbis, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	0	Vacuum
TOTALS					0	0	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Susan Ellis
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of NOV. 19 84Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbis, MCF, gals	Cummulative Inj. bbis, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	0	Vacuum
TOTALS					0	0	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Danille Goodall
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of DECEMBER 1984Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	0	VACUUM
TOTALS					0	0	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janelle Goodall
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of JANUARY 1985Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	0	VACUUM
TOTALS					0	0	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janelle Goodall
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana2535 St. John Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of FEBRUARY 1985Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	0	VACUUM
TOTALS					0	0	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Goodall

Title

Production Accounting

Address

6501 North Broadway

Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of MARCH, 19 85Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbls, MCF, gals	Cumulative Inj. bbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	3,053,426	VACUUM
TOTALS					0	3,053,426	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Janelle Goodall

Title

Production Accounting

Address

6501 North BroadwayOklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of APRIL 1985Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	0	3,053,426	VACUUM
TOTALS					0	3,053,426	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janelle Goodall
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

(SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234TO
Board of Oil and Gas Conservation
of the State of Montana2535 St. Johns Ave.
BILLINGS, MT 59102

REPORT OF SUBSURFACE INJECTIONS

For Month of MAY 1985Field Northwest Poplar County Roosevelt Operator Grace Petroleum CorporationUnit or Lease Name Goings Gov't Formation Injected Into DakotaInjection Fluid (water, gas, air, LPG, etc.) WaterSource of Injection Fluid Charles "B" & "C"Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbbls, MCF, gals	Cumulative Inj. bbbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Goings Gov't	1	11	29N	50E	8944	3,062,370	VACUUM
TOTALS					8944	3,062,370	

NOTE: Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By Janell Gordall
 Title Production Accounting
 Address 6501 North Broadway
Oklahoma City, Oklahoma 73116-8298

WELL WORK

Goings Government WDW #1, N.W. Poplar Field, Roosevelt County, MT
 SESW Section 11, T29N, R50E
 10 3/4" 40.5# surface pipe to 1302'
 4 1/2" 10.5 & 9.5# csg. to 3997' w/ 7" csg. stub top @ 3611'
 Perfs @ 3630'-3710' & 3804'-3830' (Dakota Formation)

Summary: Goings Government is the normal disposal well for the N.W. Poplar Field, with the average injection psi of 390# and 1400 BWPD.

October 12, 1984 - Integrity test performed by simply applying surface annular pressure (wouldn't hold). Test run by Grace pumper. MIRU J.W. Gibson Well Service, unflange well head and work w/packer - wouldn't release - cap well & SDON.
 DWC: \$945.00 CWC: \$945.00

October 13, 1984 - Unflange well head and installed BOP, started working w/tbg. to release packer, packer released, POOH w/ tbg. and Baker loc-set packer, PU bit & scrapper and tally into hole. Circ. clean. Found no tight spots, POOH w/ bit & scrapper and layed down, RIH w/ 5 stands as kill string, closed well in. SDON.
 DWC: \$1370.00 CWC: \$2315.00

October 14, 1984 - Sunday - rig shut down.

October 15, 1984 - Released BOP & POOH w/ 5 stands of tbg. PU packer & tbg. & TIH to 1000', set packer and pressured csg. to 300# & held. RIH w/ another 1000' and tried to psi check csg. and wouldn't hold. POOH w/ 3 stands and tried to pressure and still would not hold. POOH to 1000' and retested okay. Started RIH w/ tbg. one jt. at a time. Found leak at +1214' w/ 39 jts. in hole. Released packer & RIH w/ rest of tbg., set packer, removed BOP, flanged up well head, rig down, move off loc. (RDMOL). (Waiting on orders from management.)
 DWC: \$1510.88 CWC: \$3825.88 (stopped cost)

October 25, 1984 - MIRU Allison Well Service, POOH w/ tbg. & packer, PU bit & scrapper and TIH w/ same. Install BOP & RU equipment to clean out to PBTD (after receiving tbg. to work with). SDON.
 DWC: \$2252.00 CWC: \$2252.00

October 26, 1984 - Drill and circ. out fill, POOH w/ bit & scrapper, lay down same. RIH w/ 5 stands & SDON.
 DWC: \$2907.00 CWC: \$5159.00

October 27, 1984 - PU bridge plug and packer, TIH and set bridge plug, pressure testing csg. and moving bridge plug as needed. Located holes @ (+)3042-3074', 2692-3009', 2660-2692', 2325-2597', 2021-2325', 1989-2021', 1925-1989', 1863-1895', and 1400'. Holding @ 3134-3618', 2977-3009', 2597-2692', 2293-2325'. SDON.
 DWC: \$4470.00 CWC: \$9629.00

- October 28, 1984 - Sunday - shut down.
- October 29, 1984 - Finished POOH w/ bridge plug & packer & layed down. PU packer & RIH w/ tbg. & packer to 3530' and set w/ 20 K, flanged up well head, RDMO. (Moved to EUP 110-XD)
DWC: \$1099.00 CWC: \$10,728.00 (appr.)
- February 7, 1985 - RU & ran R.A. tracer on well & tried a pressure check again. 300# & held 1½ hrs., then slowly dropped to 160# & held.
- February 16, 1985 - Rode Allison Well Service rig to location, too windy to rig up.
DWC: \$2100.00 CWC: \$2100.00
- February 18, 1985 - Rig up, install BOP. POOH w/ tbg. & packer, RIH w/ bridge plug & set @ 3586', RIH w/ tbg. & packer & set @ 3580', test to 300# & held, POOH & reset packer @ 3524' and wouldn't pressure. Reset 2 more times @ 3462' and 3580' & wouldn't hold. POOH w/ tbg. & packer. SDON.
DWC: \$3800.00 CWC: \$5900.00
- February 19, 1985 - Test casing to 300 psi, drop to 265# in 15 min. PU packer (Model C-1), RIH & set @ 3580' & tested bridge plug and packer, held 300# okay. Reset packer @ following depths & psi to 300# & checked drop off in 15 min. 3460' drop to 290#, 3340' drop 270#, 3220' drop 265#, SDON.
DWC: \$1900.00 CWC: \$7800.00
- February 20, 1985 - POOH & lay down test packer. RIH w/ tbg. Open ended, removed BOP & flange up well head. Rig down, move off location (left bridge plug in hole).
DWC: \$1800.00 CWC: \$9600.00
- March 4, 1985 - MIRU Allison rig, spotted 4' sand plug on top of bridge plug. POOH w/ tbg. PU bit RIH & tag sand plug. POOH & lay down bit, PU scrapper (no problems or right spots). POOH & lay down scrapper. SDON.
DWC: \$4250.00 CWC: \$4250.00
- March 5, 1985 - POOH w/ 4½" scrapper. TIH w/ tbg. & releasing tool for bridge plug, circ. sand plug off of bridge plug - release bridge plug & worked up & down. Reset plug @ 3586'. Release tool & POOH w/ tbg. PU Baker Model C-1 full bore packer & started tested casing. Set packer @ 651' & tested back side to 1000# & held. Released and moved packer to 1271' & held. Reset @ 1581' & pumped up to 400# & taking water @ 1½ bbls./min. Reset up hole at ±10' (1571') & held. Released & TIH to 3441' w/ bridge plug @ 3586' & tested down tbg. @ 1000# & held. POOH to 3379' & held. POOH to 3317', pressured to 680# & bled off in 10 min. TIH to PU bridge plug. Reset @ 3317' & set packer @ 3286', pressured to 700# taking water

@ 1½ bbls./min., shut down pump, bled off to 300#. Released packer & wend down & PU bridge plug & reset it @ 3193'. Released & POOH to 3162' & set packer, psi to 1000# & bled off to 400# in 15 min. Reset bridge plug @ 2945' & packer @ 2821' psi only to 100# & taking water @ 1½ bbls./min. SDON. (Will continue testing in a.m. & pinpoint holes.)
DWC: \$1750.00 CWC: \$6000.00

Note: Will retest from 1271' to 1581' w/ packer & bridge plug to make sure of hole.

March 6, 1985 -

Continued testing.

DWC: \$1920.00 CWC: \$7920.00 (see details)

March 7, 1985 -

Log. CLB.

CWC: \$11,370.00

RDMO.



Grace Petroleum Corporation
Subsidiary of W. R. Grace & Co.

Suite 760
143 Union Blvd.
Lakewood, Colorado 80228
Phone (303) 980-9130

April 8, 1985

- GOINGS GOV'T #1 Document # 3 -

Ms. Laura J. Clemmens
United States Environmental Protection Agency
Region VIII, Water Management Division
1860 Lincoln Street
Denver, Colorado 80295

Dear Ms. Clemmens:

Respectfully submitted for review and approval by your agency are the repair programs for two of the three (Buck Elk #2 withheld) water disposal wells in our Poplar Field. These two wells are identified by Permit Numbers MTS21PE-0007 (EPU 110-XD) and MTS21PW-0008 (Goings Gov't #1 SWD).

The proposed repair procedures have been developed and evaluated by our staff and are considered optimal. The outlined procedures are all within the area of generally accepted practices. Satisfactory, long term insurance of USDW protection will be obtained upon implementation and completion of these repairs.

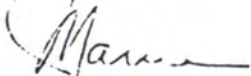
Flexibility within the scope of these plans is assumed since variables of an unpredictable nature most always come into play when proceeding with actual work. We will notify your group of any major deviations encountered that are not encompassed by these programs.

Sundry notification of intent and approval with BLM and the Montana Oil and Gas Commission for Goings Gov't SWD #1 and EPU 110-XD, respectively, will begin immediately pending your department's acceptance of the proposed procedures. In house authorization is also yet to be completed. When all authorizations are collected; material, equipment and field personnel will be gathered and selected. It is expected that work should be able to commence as soon as approvals are received. We will keep you posted of our progress and make you aware of a start date when selected.

Additionally, we thank the EPA for its consideration in the matter of allowing temporary reinjection into the Goings Gov't #1 well. We appreciate the effort made in our behalf in attempting to find an interim solution.

We look forward to hearing from you as soon as review of the proposed repair programs is completed.

Sincerely,



Jack Nance
District Manager

Attachments

JN/DFA:mc

cc: M. T. Jordan
Bill Baswell
Dane F. Anderson
Well Files

REMEDIAL REPAIR PROGRAM

GOINGS GOVERNMENT #1 SWD

This well exhibits a leak in the casing. A CBL was run on this well on March 7, 1985. The cement top was found at 2950' KB rather than the calculated depth of 2240'. The casing appears free from the cement top to surface. Casing replacement to free point versus squeeze cementing all leaks have been investigated. Casing replacement has been selected as a primary repair choice with squeeze cementing retained as an alternate choice. Refer to the attached well schematic for general details. A Sundry Notice to BLM with accompanying approval will be obtained prior to the commencement of any work. The following procedure outlines the casing replacement mode.

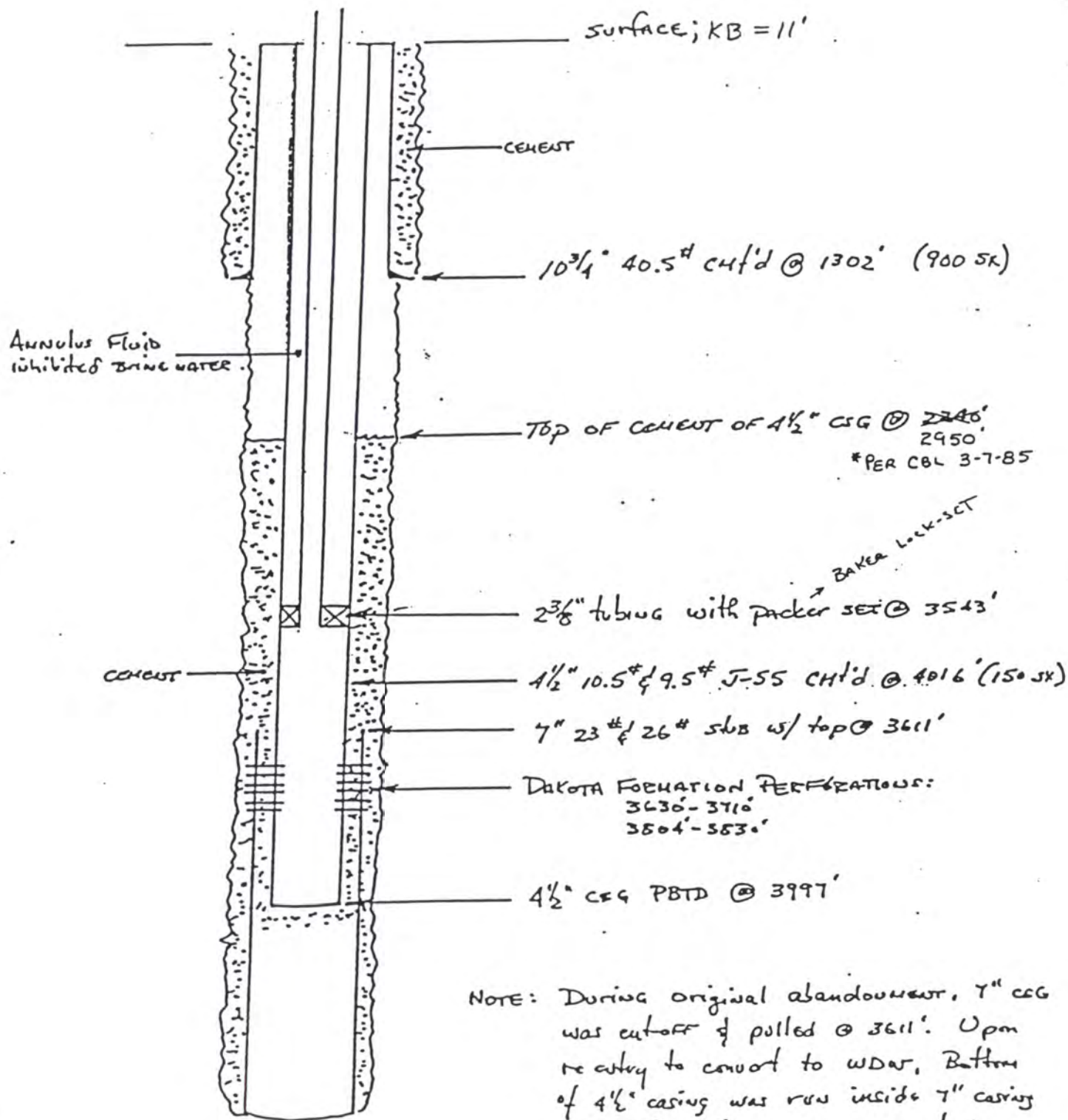
1. Move in workover rig and all other equipment.
2. Set cast iron drillable bridge plug at 3590' (all measurements from KB' = 11'). Set five sacks of cement over same.
3. Nipple up 4½" casing for lifting purposes. Set hydraulic casing jack equipment. Lift 4½" casing and remove wellhead casing slips. Continue to work pipe with jacks.
4. Run free point tests with casing jacks to confirm necessary pipe freedom to the desired or lowest possible cutoff point.
5. Run in hole with 4½" mechanical casing cutter. Cut pipe at free point.
6. With casing jacks, work and part pipe. Attempt to establish circulation to condition hole and facilitate pipe movement.
7. With movement established, pull and lay down casing.
8. Run bit and condition hole with mud.
9. Pick up 4½" casing bowl (patch) and new 4½" 10.5# casing and run in hole.
10. Land bowl patch over casing stub. Set casing tension and replace wellhead casing slips. Nipple down.
11. Run in hole with retrievable bridge plug and set below where casing was cut. Pressure test patch joint and new casing. Pull bridge plug.
12. Pressure test remainder of casing below patch. If needed, utilize normal squeeze cementing practices through this interval.
13. Drill out cement and cast iron bridge plug at 3590'. Circulate hole clean to bottom.

14. Run Baker 4 1/2" Lock-Set packer and 2 3/8" internally coated tubing. Packer at ±3580' with no tail.
15. Displace brine out of annulus with packer fluid and set packer.
16. Surface pressure test annulus and packer. Arrange for EPA representative to witness mechanical integrity.
17. Commence injection within BLM and EPA permit specifications and limitations for this well.

Squeeze cementing the leak areas will be optioned if any difficulties in casing replacement are encountered, i.e., insufficient pipe freedom. Squeeze cementing would follow the same procedure up to and including step 2. Normal squeeze cementing procedures would follow after that: Squeeze the leak area, drill out plug and pressure test the repaired interval. This procedure would be repeated, if necessary, until integrity is demonstrated throughout the wellbore. Steps 13-17 would complete this procedure.

GOINGS GOVERNMENT UDW #1
NW Poplar Field

Downhole Schematic



NOTE: During original abandonment, 7" CSG was cut-off & pulled @ 3611'. Upon reentry to convert to UDW, Bottom of 4 1/2" casing was run inside 7" casing sub. The 4 1/2" CSG was cemented from 3997' to 2240'.

WELL: Goings Gov't SWD PROSPECT: NW Poplar PTD: _____
 OBJECTIVE: Dakota OPERATOR: GPC CONTRACTOR: Allison Well Serv.
 LOCATION: SE SW Sec. 11-T29N-R50E, Roosevelt Co., MT WORKOVER DATE: 5/12/85
 AFE NO: G-85-WAW-31-032615-02 AFE DHC: \$ _____ AFE TWC: \$42,633 WI: 25%
 CASING: (Size & Depth): 4-1/2"
 ELEVATION: GL 2248' DF _____ KB 2259' DEPTH: TD 3997' PBDT 3962'

5/12/85 FIRST REPORT

Operation @ report time - going in hole w/BP. MI RU Allison Well Service Rig #7. No BOP. POOH w/57 jts 2-3/8" tbg. Secure well for Sunday.

Costs: Rig \$592.50, Rentals \$125
 DWC: \$717.50 CWC: \$717.50

5/14/85 Operations at report time - working pipe to run free point #2.

Day 3: SITP 0, SICP 0, FL @ 200' saltwater. Open well, RU Homoco wireline and set CIBP in 4-1/2" csg @ 3590'. Dump 5 sxs cement on plug. RD BOP's, tbg spool. Weld on 5-1/2" lift nipple, work pipe off slips. Work for 1 hr @ 50,000#. Run free point, 1000' 100% free, 1200' 90% free, 1300' 25% free, 1400' no movement 100% stuck. Secure well for night.

Costs: Rig \$1,142.50, Welder \$270, Supervision \$1,834, Rentals \$360.
 DWC: \$3,606.50 CWC: \$4,324

5/15/85 SITP 0, SICP 0. FL @ 200' saltwater. Operations @ report time SI 2 hrs work csg. Rerun freepoint - still stuck @ 1400'. Shut well in.

Costs: Rig \$740, Rentals \$1,270, Wireline \$2,703, Trucking \$260, Supervision \$500, Fishing Tool Operator \$700
 DWC: \$6,173 CWC: \$10,497

5/16/85 Operations at report time - SI. Will move back on well 5/18/85 to resume operations.

DWC: 0 CWC: \$10,497

5/17/85 Operation @ report time - pulling 2-3/8" tbg. MIRU Allison Well Service Rig #7.

DWC: 0 CWC: \$10,497

5/18/85 SITP 0, SICP 0. FL @ surface water.

ND WH. NU BOP. Strap out of hole w/55 stds 2-3/8" tbg. RIH w/3-7/8" bit, 4 - 3-1/8" drill collars & tbg. Tag cmt @ 3577', drill cmt, CIBP @ 3577' & push to PBDT 3884'. Circ hole clean. POOH. SWIFN

Costs: Rig \$1,925, Supervision \$500, Rental \$400, Bit \$350, Trucking \$500.
 DWC: \$3,675 CWC: \$14,172

5/19/85 Operations @ report time - POOH w/bit.

POOH & LD 3-7/8" bit. RIH w/4-1/2" csg scraper to 3869'. Rig Howco & circ hole clean. POOH w/csg scraper. RIH w/9 jts 2-3/8" tailpipe, 4-1/2" Locset pkr. Hang pkr @ 3587', tailpipe @ 3869'. RU Howco, spot 15% HCl across btm perfs @ 3804-3830', soak acid on perfs for 1/2 hr. Displace (300 gals 15% HCl) into perfs in 6 stages. SI & allow well to take acid. Rig Howco to csg. Release pkr. Circ hole w/wtr (well on vac). RD Howco. POOH & LD 2-3/8" tbg, pkr. SWIFN

Costs: Rig \$1,442, Supervision \$500, Rental \$400, Trucking \$1,000, Wellhead \$1,400, Tools \$1,854, LTV \$590.
 DWC: \$7,186 CWC: \$21,358

5/20/85 Operations @ report time - Rigging up to drill out 2-7/8" tbg.
 PU Baker 2-3/8" F Nipple (1.81 ID) set @ 3599.04'
 1 - 4' 2-3/8" sub
 1 - 2" tbg knock out disk
 1 - 4' 2-3/8" sub
 1 - 4-1/2" AD-1 pkr set @ 3591.04'
 1 - 2-3/8" x 2-7/8" xo
 1 - 1' perf 2-7/8" sub set @ 3590.00'
 115 jts 2-7/8" EUE 6.5# J-55 tbg set @ 3589.73'
 w/14,000# tension. ND BOP, NU 7-1/16" x 3000# x 2-7/8" tbg hanger
 flange. RU Howco, cond & circ hole w/9.5# mud. Cmt w/10 Howco Lite
 11# gal, 90 sxs 12.4# gal Howco Lite w/2% CaCl, 50 sxs Class 'G' w/2%
 CaCl, cmt to surface (2 bbls). RD Howco. SWIFN w/700# on tbg.
 Costs: Rig \$1,950, Howco \$5,330, Supervision \$500, Rental \$200, Water
 Truck \$1,790.
 DWC: \$9,770 CWC: \$31,128

5/21/85 Operations @ report time - pressure test tbg (2-7/8") to 520#, held
 ok. Messrs. Hall & Nelson W/BLM on location.
 SITP 300, SICP 0. FL @ surface. RU reverse unit. Rig & run 117
 jts 1-1/4" drillpipe & 2-5/16" cement mill, tag cement @ 3466'. Drill
 cement from 3466' to top of pkr @ 3588'. Circ. hole clean, RD swivel.
 Test 2-7/8" tbg csg to 600#, bleed to 530# in 30 min. SIFN
 Costs: Rig \$1,545, Supervision \$500, Rental \$1,000, Trucking \$1,685.
 DWC: \$4,730 CWC: \$35,858

5/22/85 Operations @ report time - laying dn 1-1/4" drillpipe.
 SITP 0, SICP 0. FL surface.
 Press. tbg for integrity test for the EPA & BLM (Mr. Hall & Mr. Nelson
 w/BLM on location). Test to 520#, press. dropped to 515# in 55 mins.
 Test approved by BLM reps.
 POOH LD 2-1/4" mill, PU 1-7/8" mill & drillpipe. Attempt to drill
 out tailpipe, unable to run mill through pkr. POOH. Run 1-1/4" stinger
 & wash sand out of tailpipe, push out skinner disk @ 3595' - push
 plug out btm of tailpipe. LD 10 jts drillpipe. SWIFN
 Cost: Rig \$1,718, Supervision \$500, Rentals \$1,350.
 DWC: \$3,568 CWC: \$39,426

5/23/85 Operations @ report time - awaiting approval of the EPA to inject.
 Tbg on vac. POOH & LD 1-1/4" drill pipe, 1-1/4" mill w/stinger.
 NU WH. RD workover rig.
 Injection rate 2-1/2 BPM @ 250#. Shut well in.
 Costs: Rig \$912.50, Supervision \$500, Rentals \$1,360.
 DWC: \$2,772.50 CWC: \$42,198.50

5/24/85 Present operation - injecting water.
 Received EPA approval @ 12:30 PM 5/23/85 - resumed injection 5/23/85
 2:00 PM. FINAL REPORT
 Supplement not required.
 CWC: \$42,198.50

5/25/85 Inj 1200 BW @ 300#.

5/26/85 Inj 2020 BW @ 300#.

5/27/85 Inj 900 BW @ 300#.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ONE DENVER PLACE — 999 18TH STREET — SUITE 1300
DENVER, COLORADO 80202-2413

DEC 30 1985

RECEIVED

REF: 8WM-DW

JAN 2 1986

William F. Baswell, III
Operations Engineer
Grace Petroleum Corporation
143 Union Blvd., Suite 760
Lakewood, Colorado 80227

GPO ROCKY MOUNTAIN
REGION OPERATIONS

RE: ANNOUNCEMENT OF DECISION
Underground Injection Activities
into the Judith River Formation

Dear Mr. Baswell:

As you know, a public hearing was held in Poplar, Montana, on May 29, 1985, to hear testimony regarding our intent to issue a permit for the Goings No. 1 SWD Well. Another issue surrounding our intent to issue this permit, was whether or not EPA should allow other salt water disposal wells to inject into the Judith River Formation.

The Region VIII Office of the Environmental Protection Agency is hereby rendering a decision concerning certain injection activities on the Fort Peck Reservation. A public notice will appear soon in the Billings Gazette and the Wolf Point Herald announcing that EPA has issued the final permit for the Goings No. 1 SWD Well, and that a Statement of Policy has been developed concerning injection into the Judith River Formation on the Fort Peck Reservation.

Enclosed are copies of the public notice and our Statement of Policy. Should you have any questions on either subject, please address them to the appropriate person as identified in the enclosed material.

Sincerely,

Max H. Dodson, Director
Water Management Division

Enclosures

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

ONE DENVER PLACE -- 999 18TH STREET -- SUITE 1300

DENVER, COLORADO 80202-2413

Statement of Policy

Injection activities into the Judith River Formation
on the Fort Peck Reservation

BACKGROUND

EPA published a notice on December 27, 1984, in the Wolf Point Herald stating an intent to issue two Underground Injection Control (UIC) permits to Century Oil & Gas for the purpose of salt water fluid disposal. EPA encouraged public comments on the proposed actions. A notice appearing on January 15, 1985, extended the deadline for public comments on EPA's intended actions until February 15, 1985.

In a letter of January 29, 1985, the Fort Peck Tribes objected to the issuance of one of the two draft UIC permits which would allow injection through the Goings No. 1 Well. The objection was based on the Tribe's overall concern about the degradation of ground water on the Reservation. The Goings No. 1 Well is one of several injection wells which presently disposes of fluids into the Judith River Formation - an aquifer which the Tribe has requested be protected as an underground source of drinking water (USDW). The UIC regulations broadly define a USDW as an aquifer or its portion which both: 1) contains fewer than 10,000 mg/l total dissolved solids (TDS), and 2) is capable of supplying a public water system.

The Tribe subsequently requested a public hearing in order to present relevant information which would substantiate their request to preserve the Judith River Formation. The hearing was held on May 29, 1985, at the Poplar Activity Center.

CONCLUSIONS

The testimony and supporting documentation collected at the hearing were evaluated by EPA. The following discussions reflect the results of the technical evaluation and constitute EPA policy.

POLICY

STATEMENT

NO. 1

No new injection wells or converted wells will be allowed to dispose of fluids into the Judith River Formation where the TDS concentration is known to be less than 10,000 mg/l.

Discussion and Basis of Decision

Alternative sources of drinking water are currently available and are being used in the vicinity of the oil production. The principal sources (alluvium and glacial gravels; the Fox Hills and Fort Union aquifers) are located stratigraphically above the Judith River and have significantly higher quality water. The Judith River provides water for livestock use near the cities of Wolf Point and Glasgow. However, there are no known drinking water wells producing from the Judith River near any injection wells located in the eastern half of the Reservation.

Although there is no current domestic use of the Judith River aquifer in the eastern half of the reservation, the UIC regulations still afford protection of aquifers which exhibit fewer than 10,000 mg/l TDS. Based upon this authority, EPA adopts the policy to prohibit new injection wells into the Judith River where it is defined as a USDW. By doing so, EPA recognizes the concerns of the Tribe that the Judith River Formation be preserved for future use.

POLICY
STATEMENT
NO. 2

It is concluded that the Judith River Formation in the Deadman's Coulee and Poplar Fields located to the east, is not now, nor was it prior to injection activities, a USDW. The Judith River is also confined from overlying USDWs by 800 to 1,000 feet of shale. The existing injection wells in these fields will be authorized to continue injecting into the Judith River Formation as long as compliance with appropriate EPA rules and permits is maintained. The following injection wells have pending permit applications:

<u>EPA PERMIT</u>	<u>WELL NAME</u>	<u>FIELD</u>	<u>OPERATOR</u>
MTS21PR-0003	Goings No. 1	Poplar	Century Oil & Gas
MTS21PE-0009	Buck Elk No. 2	E. Poplar	Grace Petroleum
MTS21PE-0023	EPU 8-D	E. Poplar	Murphy Oil
MTS21PE-0024	EPU 29-D	E. Poplar	Murphy Oil
MTS21DM-0034	Allotted Hall	Deadman's Coulee	Reading & Bates

Discussion and Basis of Decision

Little water quality data are available for the Judith River Formation in the areas where most of the injection wells are located. However, a water analysis of a sample taken (prior to injection) from the Allotted Hall salt water disposal well, Deadman's Coulee Field, showed a TDS concentration greater than 10,000 mg/l. This sample was found to be reliable, based upon evaluation of the sampling technique. It is known that the formation downdips to the east and that TDS quality of the Judith River Formation increases from west to east. Therefore, the Judith River underlying the Poplar Field would also not qualify as a USDW.

Testimony presented by the Tribe asserted that injection fluids in the Poplar field may be forced to migrate updip and to the west (possibly to the far western edge of the Reservation) due to the fact that the Judith River Formation becomes pinched off by the Bearpaw Shale in the eastern portion of the Reservation. Pressure buildup effects, extending up to eight miles, may influence the natural ground water flow pattern. However, from evaluation of the data, ground water flow reversal is not likely to exceed more than two miles from any wellbore.



GOINGS GOV'T #1 Document #6

Grace Petroleum Corporation
—Subsidiary of W. R. Grace & Co.

Suite 760
143 Union Blvd.
Lakewood, Colorado 80228
Phone (303) 980-9130

May 22, 1985

Mr. Pascual Laborda
United States Department of the Interior
Bureau of Land Management
Miles City District Office
P. O. Box 940
Miles City, Montana 59301

Re: Submittal of Subsequent Sundry
For Repairs to Goings Gov't SWD #1
SE SW Section 11, T29N-R50E
NW Poplar Field
Roosevelt County, Montana
Lease No. 14-20-256-22

Dear Mr. Laborda:

Recently you received a Sundry and Plans for Intent to Repair the subject water disposal well. The original procedure called for casing replacement as the primary repair choice. We were initially optimistic about this prognosis since 7" casing had been previously pulled and removed from this well at a depth greater than our requirements. Unfortunately, the 4-1/2" casing was only free to 1400'. The majority of the pipe problems to be rectified were below that depth. An alternate remedy dictated cement squeezing and was the secondary choice of repair. Additional information obtained while on the hole indicated that this would be economically unfavorable associated with a high degree of risk. With options nearly depleted, further communication with EPA and your Department ultimately resulted in salvaging the well by permanently cementing a 2-7/8" tubing string within the 4-1/2" casing. Attached is the Subsequent Sundry detailing the performed work.

We greatly appreciate the rapid dispatch of BLM representatives to witness the pressure holding integrity test. Additionally, we thank you for your assistance and expedient approvals in order that we could meet the deadlines imposed by EPA.

Sincerely,

Jack Nance
District Manager

cc: Well File
D. F. Anderson
M. T. Jordan
B. Baswell

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SUBMIT IN TRIPL
(Other instructions
verse side)

Budget Bureau No. 1004-0135
Expires August 31, 1985
CLASS DESIGNATION AND SERIAL NO.

SUNDRY NOTICES AND REPORTS ON WELLS

(Do not use this form for proposals to drill or to deepen or plug back to a different reservoir.
Use "APPLICATION FOR PERMIT—" for such proposals.)

14-20-256-22

6. IF INDIAN, ALLOTTEE OR TRIBE NAME

Allotted Ft. Peck

7. UNIT AGREEMENT NAME

8. FARM OR LEASE NAME

Goings Gov't

9. WELL NO.

SWD #1

10. FIELD AND POOL, OR WILDCAT

NW Poplar/Dakota

11. SEC., T., R., W., OR BLK. AND
SUBST OR AREA

Sec. 11, T29N-R50E

12. COUNTY OR PARISH

Roosevelt

13. STATE

Montana

1. OIL WELL ☐ GAS WELL ☒ OTHER Salt Water Disposal Well

2. NAME OF OPERATOR
Grace Petroleum Corporation

3. ADDRESS OF OPERATOR
143 Union Blvd. - Ste 760, Lakewood, CO 80228

4. LOCATION OF WELL (Report location clearly and in accordance with any State requirements.*
See also space 17 below.)
At surface

660' FSL & 1980' FWL Sec. 11
SE SW Sec. 11

14. PERMIT NO.

15. ELEVATIONS (Show whether DF, RT, OR, etc.)

2248' GL, 2259' KB

16. Check Appropriate Box To Indicate Nature of Notice, Report, or Other Data

NOTICE OF INTENTION TO:

TEST WATER SHUT-OFF

☐
☐
☐
☐

PULL OR ALTER CASING

☐
☐
☐
☐

FRACTURE TREAT

MULTIPLE COMPLETE

SHOOT OR ACIDIZE

ABANDON*

REPAIR WELL

CHANGE PLANS

(Other)

SUBSEQUENT REPORT OF:

WATER SHUT-OFF

☐
☐
☐
☐

FRACTURE TREATMENT

SHOOTING OR ACIDIZING

(Other)

REPAIRING WELL

ALTERING CASING

ABANDONMENT*

☒
☐
☐
☐

(NOTE: Report results of multiple completion on Well
Completion or Recompletion Report and Log form.)

17. DESCRIBE PROPOSED OR COMPLETED OPERATIONS (Clearly state all pertinent details, and give pertinent dates, including estimated date of starting any proposed work. If well is directionally drilled, give subsurface locations and measured and true vertical depths for all markers and zones pertinent to this work.) *

PU & RIH 2-3/8" Baker 'F' seat nipple, 1 - 2-3/8" EUE x 4' tbg sub, 2-3/8" in-collar knock-out rupture disk, 1 - 2-3/8" EUE x 4' tbg sub, Baker Model AD-1 4-1/2" x 2-3/8" EUE pkr, 2-3/8" x 2-7/8" EUE XO, 1 - 2-7/8" EUE x 1' perforated (8 - 1/2" holes) tbg sub, 115 jts new 2-7/8" EUE 6.5# J-55 tbg. Pkr set @ 3591' w/14,000#. Placed 5' 20-40 sand over blanking disk. Circ. & conditioned hole w/9.5# mud. Cmt tbg in csg to surf w/150 sx cmt. Displaced cmt dn tbg w/water & close in w/700 psi on tbg. Obtained 2.5 bbls cmt surface returns. WOC SIFN. PU & RIH w/2-5/16" mill. Tag cmt in tbg 124' above perf sub. Drill out to 2-3/8" x 2-7/8" XO sub. Press. tbg & cmt holes to 520 psi surface & hold 55 min. Press. integrity test witnessed by BLM reps. PU & RIH w/1-1/4" mill. Clean out remaining cmt & sand to disk. Knock out disk. POOH. NU wellhead. Ready to resume injection.

18. I hereby certify that the foregoing is true and correct

SIGNED

Jack Nance

TITLE District Manager

DATE 5/21/85

(This space for Federal or State office use)

APPROVED BY

TITLE

DATE

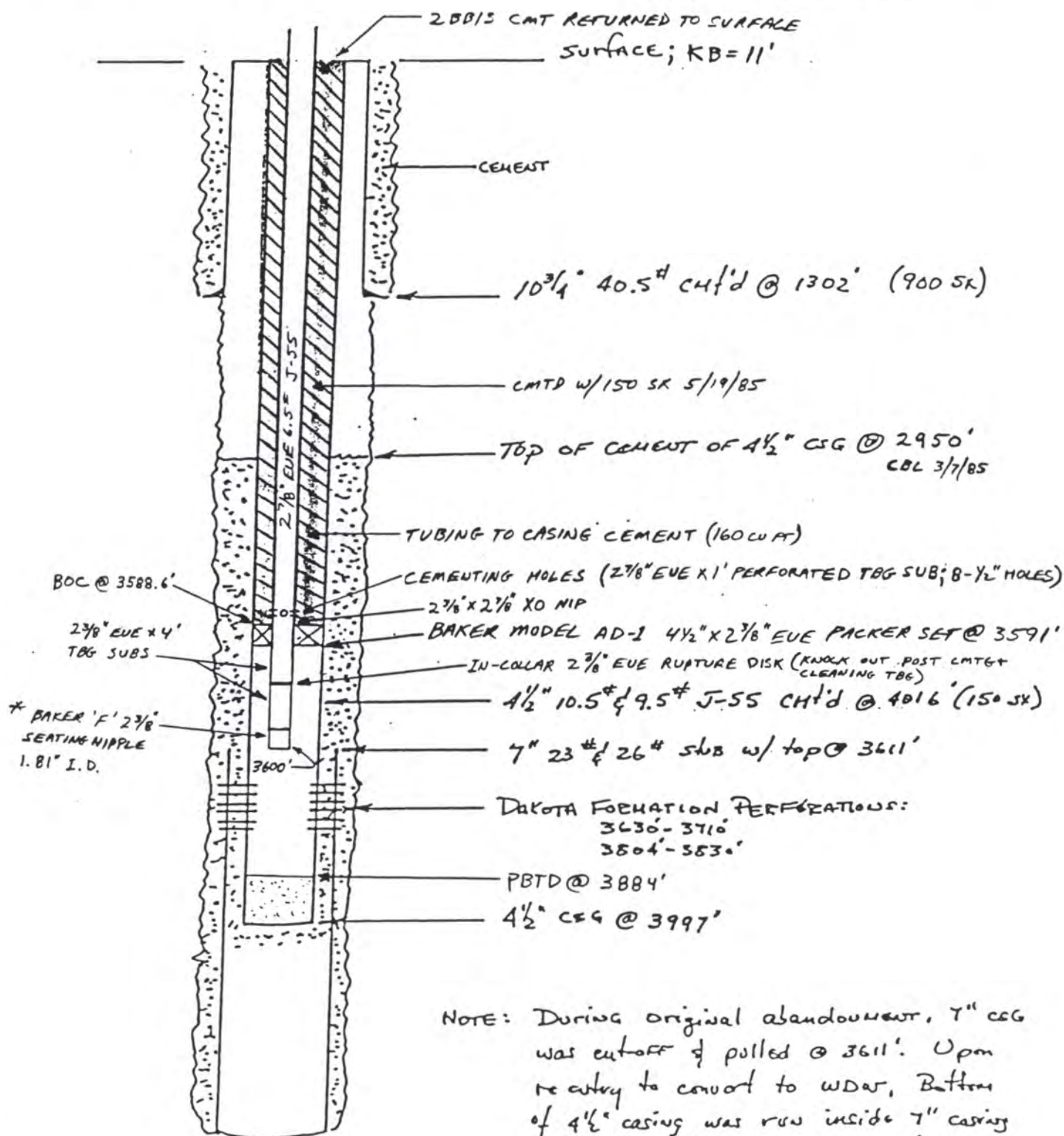
CONDITIONS OF APPROVAL, IF ANY:

*See Instructions on Reverse Side

FAIR SCHEMATIC

Grings Gouvenment WDW #1
NW Poplar Field

Downhole Schematic



NOTE: During original abandonment, 7" CSG was cutoff & pulled @ 3611'. Upon reentry to convert to WDW, Bottom of 4 1/2" casing was run inside 7" casing SUB. The 4 1/2" CSG was cemented from 3997' to 2950'.

* TO BE UTILIZED FOR RUNNING WIRELINE
BLANKING PLUG FOR FUTURE PRESSURE
HOLDING INTEGRITY TESTS.

EXHIBIT C

SUBMIT IN TRIPLICATE)

ARM 36.22.307
ARM 36.22.1234

TO

Board of Oil and Gas Conservation
of the State of Montana
2535 St. Johns Ave.
BILLINGS, MT 59102

BUCK ELK #2 Document # /

REPORT OF SUBSURFACE INJECTIONS

For Month of DECEMBER 1982

Field East Poplar County Roosevelt Operator Grace Petroleum Corporation
(A Subsidiary of W.R. Grace Co.)
Unit or Lease Name Buck Elk Formation Injected Into Judith River
Injection Fluid (water, gas, air, LPG, etc.) Water
Source of Injection Fluid Madison
Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION					Monthly Inj. bbls, MCF, gals	Cumulative Inj. bbls, MCF, gals	Avg. Surface Inj. Pressure
Name	No.	Sec.	Twp.	Rge.			
Buck Elk	2W	7	29N	51E	-0-	3,263,920	
TOTALS						3,263,920	

NOTE: / Mail three (3) copies to the Board of Oil and Gas Conservation of the State of Montana, Billings, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By *[Signature]*
Title Production Assistant
Address Three Park Central, Ste 333
1515 Arapahoe St.
Denver, CO 80202

BUCK ELK 2W - Well Service Report

5-13-70

Rigged up Dicks Well Service Rig, Found H-Drill Tubing. Shut in for night to get slip-type elevators.

5-14-70

Pulled Tubing, found 1 split joint. Dropped total of 4 bad joints. Ran Baker model N Packer to 999.52, Flanged up well head. Started pumping with disposal pump. Water came to surface in 20 min. Released Rig pending instructions from Denver.

5-20-70

Rigged up Halliburton to squeeze well. Had circulation up 7" annulus and also Surface pipe. Rigged up Northwest Rig and found 3 more joints of bad tubing. Changed out 2-7/8" ~~XXXX~~ Hy-Drill tubing and put in 2-7/8" EUE 8rd N-80 Tubing from Stock. Pumped in 20 sx cement and cleared perforations. Shut in for 2 hours. Started pumping on tubing and still had some circulation up surface pipe. Pumped in 15 sx cement and shut in for 12 Hr.s.

5-21-70

Halliburton pumped 20 bbls fresh water with slight circulation out surface pipe, may be Expansion. Released Halliburton. Well took water at 275 Lb. for 5 hours and came to ground surface again.

5-22-70

Rigged up Halliburton and pumped 20 sx cement into perfs. cement pumped in at 1-1/2 Bbl /Min, 375 lb. Shut in for 3 Hrs. Pumped 15 sx cement at 1/2 bbl/Min at 400 lb. Shut well in for undetermined period. Will slow down disposal pump before trying to inject more water.

Material Changed out.

31 Joints 2-7/8" Spang Hy-Drill tubing, Used 31 Joints 2-7/8 N-80.
Installed 2 4' Pups
2 3' Pups.
1 Baker Model N Packer.

WORKOVER REPORT JUN 27 1978

DATE 6 / 14 / 78

<input checked="" type="checkbox"/> PUMP ING	<input type="checkbox"/> FLOW ING	<input type="checkbox"/> GAS LIFT	<input type="checkbox"/> WATER IN	<input type="checkbox"/> GAS IN	FIELD E. Poplar	TOUR	LEASE Buck Elk	PROD. DEPT.	WELL NO. 2-W
---	--------------------------------------	--------------------------------------	--------------------------------------	------------------------------------	---------------------------	------	--------------------------	-------------	------------------------

TUBING STRING DATA								ROD STRING DATA						
EQUIPMENT	SIZE	EUE PLAIN	THREADS	RANGE	NO. JOINTS	LENGTH		SIZE	NO. RODS	PARTED				
						FEET	TENTHS			BOX	PIN	BODY	UNSCREW	DEPTH
Baker Model D	2-7/8	EUE	8rd		1	1000		1 1/8"						
Tubing	W	W	W		32			1"						
4' Tubing Subs	W	W	W		2			7/8"						
								3/4"						
								5/8"						

REMARKS

PUMP	OUT	PUMP NO.	MAKE		TYPE		SIZE	
		NONE						
	IN	PLUNGER SIZE & TYPE	TYPE LOCK		PREVIOUS S.P.M.		LENGTH STROKE	
		O.D.					IN.	
PUMP	OUT	PUMP NO.	MAKE		TYPE		SIZE	
	IN	PLUNGER SIZE & TYPE	TYPE LOCK		PUT WELL ON		S.P.M.	
		O.D.			AM		PM	
CLEAN	OUT	BAILER SIZE O.D.	TYPE & LENGTH		BAILED FROM		TO	
	OUT	RECOVERED			FLUID LEVEL		FT	
						AM		PM
CLEAN	OUT	RECOVERED			WATER LEVEL		FT	
						AM		PM
	OUT	RECOVERED			IMPRESSION BLOCK		SIZE	
						STOPPED AT		INDICATES

HOIST NO. 1	RIG HRS 8	TRAVEL TIME 1	SAND LINE HRS	CREW ON AM PM	CREW OFF AM PM	NO. OF MEN	MAN HOURS	<input checked="" type="checkbox"/> COMPLETED	<input type="checkbox"/> NOT COMPLETED
-----------------------	---------------------	-------------------------	---------------	---------------------	----------------------	------------	-----------	---	--

REMARKS

6-14-78 - Water surfacing from well. Rigged up, COH with tubing and packer stinger. Found 1 Split joint of tubing. Repladed 1 jt tubing and baker stinger seal assembly. WIH with tubing and put well back in service. (Casing bad in well)

PRODUCTION FOREMAN OR ENGINEER Ted Nees	HEAD WELL PULLER Glen Allison (Northern Well Wervice)
--	--

WELL WORK

Buck Elk #2 WDW, East Poplar Field, Roosevelt County, MT
SWNE Section 7, T29N, R51E
10 3/4" 32# surface pipe to 325'
7" 23&26# casing to 5964'
Two plugs in hole; one @ 5670' and one @ 1183'
Perfs in Judith River @ 1140-57'

Summary: Well is a backup (standby) disposal well for the Poplar Field. This injector has been used only occasionally in the past several years and serves as a temporary standby facility. It functions only in emergency situations when produced fluid from the Buck Elk #1 and Cut Hair #1 wells cannot be transferred to their normal injection facilities (Goings Gov't #1 SWD). Also this same line that the two above wells use to transfer water to the Goings SWD can be used to take water from Goings to the Buck Elk SWD in an emergency situation.

- October 12, 1984 - Integrity test performed by simply applying surface annular pressure (wouldn't hold). Test run by Grace pumper.
- October 23, 1984 - MOL and RU Allison Well Service, unflange head and install BOP; POOH w/ 30 jts. 2 7/8" tbg. w/ Baker seal assembly. RU and RIH w/ bit & scrapper to top of packer @ 1000' w/no tight spots in csg. POOH w/ bit & scrapper and laid down same. RIH w/ 2 stands of tbg. SDON.
DWC: \$2820.00 CWC: \$2820.00
- October 24, 1984 - POOH w/ 2 stands of tbg., PU R-3 packer and RIH w/ tbg. checking csg. for hole. Found leak @ 680'(+). POOH and lay down packer, PU seal assembly and RIH w/ old tbg. Closed well in and hauled new tbg. to location. SDON.
DWC: \$1513.00 CWC: \$4333.00
- October 25, 1984 - Trip out of hole w/ tbg. laying down bad tbg. Tally & PU new tbg., RIH w/ same. Flange up well head RDMOL (32 jts. tbg.).
DWC: \$1226.00 CWC: \$5559.00

(last report)

*Denver
FILE*

WELL: Buck Elk #2 WDW PROSPECT: N.W. Poplar PTD: N/A
OBJECTIVE: P&A Judith River OPERATOR: GPC CONTRACTOR: Tim Haley
LOCATION: SW NE Section 7, T29N-R51E, Roosevelt Co., MT WORKOVER DATE: 1/29/86
AFE NO.: G-85-WIW-98032 AFE DHC: \$ AFE TWC: \$ 9,700 WI: 100%
CASING: (Size & Depth): 10-3/4" @ 325'; 7" @ 5952'
ELEVATION: GL 2231' DF KB 2241' DEPTH: TD 5964' PBD: 1183'

1/29/86 FIRST REPORT

Day 1: Shut-in tbg & csg 10#. FL @ surface.
Remove burm & fence around station. MIRU J. W. Gibson Well Service.
ND WH, install BOP, POOH w/16 stds 2-7/8" tbg & 7' seal bore assembly
(seals in fair condition). Strap back in hole to Model 'D' pkr @
1000'. Install tbg valve & shut well in for night.
Costs: Rig \$1,730, Supervision \$1,000, Rentals \$600, Trucking \$178,
Water Truck \$140, Rst. \$150.
DWC: \$3,798 CWC: \$3,798

1/30/86 Day 2: Shut-in tbg & csg 0

RU Halliburton. Blow starter motor on pump truck, wait 3 hrs for
replacement. RU new pump, sting into pkr & got injection rate of
1 bbl/min @ 600 psi. Pull out of pkr & displace hole w/10# brime
fluid. Mix 50 sxs Class 'G' cmt & spot to 100' from seal assembly,
sting into pkr & displace all cmt below pkr. Ending pump rate 1/2
bbl/min @ 600 psi. POOH & lay down 8 jts. Spot 20 sxs cmt from 620'
to 720', POOH & lay down 12 jts, spot 20 sxs cmt from 275' to 375',
POOH & lay down 9 jts, spot 20 sxs cmt in top of 7", dig out
Braddenhead, pump 25 sxs cmt in 10-3/4" x 7" annulus. SD WOC. Will
tag top plug in AM 1/31/86. (BLM on location)
Costs: Rig \$1,320, Supervision \$450, Wtr Trucks \$968.
DWC: \$2,738 CWC: \$6,536

1/31/86 Day 3:

RIH to tag cmt. PU 8 jts. Tag cmt ± 235'. RU Halco. Circ cmt to
6' from surface (50 sx). Press test 10-3/4" to 700 psi for 3 min.
RD Halco. RD MOL workover unit.
Costs: Rig \$600, Supervision \$450, Halco \$5,045, Wtr Trucks \$295.
DWC: \$6,390 CWC: \$12,926

2/1/86 Day 4:

Dig out concrete cellar & WH. Cut csg off 5' below GL & weld plate
on top w/legal info on it. Rebuild dike & fence & pull anchors.
Costs: Rst \$1,500, Welder \$500.
DWC: \$2,000 CWC: \$14,926

2/2/86 Day 5:

No report

2/3/86 FINAL REPORT

Finished cleaning up of location & moved tbg to Poplar Yard.
Costs: Rst \$1,000
DWC: \$1,000 CWC: \$15,926



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
1860 LINCOLN STREET
DENVER, COLORADO 80295

BUCK ELK #2 Document #3

MAR 29 1985

Ref: 8WM-DW

Mr. Jack Nance,
District Operations Manager, Western Region
Grace Petroleum Corporation
143 Union Boulevard, Suite 760
Lakewood, Colorado 80228

Re: Final Underground Injection Permits
Permit Numbers:
MTS21PE-0007 (EPU 110-XD)
MTS21PW-0008 (Goings Gov't #1)

Dear Mr. Nance:

The closing period for receipt of comments on EPA's draft permit action for the two injection wells mentioned above was November 26, 1984, as published in the Billings Gazette and the Herald-News. No public comments were received, therefore a final permit has been issued. Your copies of the Final Underground Injection permits are enclosed.

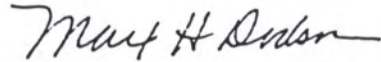
Please note that we have not issued the permit for the Buck Elk #2 well. EPA is investigating the safety of the disposal of brine wastes into the Judith River Formation (considered an underground source of drinking water), and will not issue a permit to allow the underground injection of wastes into the Judith River at this time. This matter will be addressed fully under separate cover.

There are several conditions which have been changed from the draft permits that must be fulfilled prior to recommencing injection through the permitted wells. Please take special note of condition numbers 11 and 13 in each permit, which require that certain casing, cementing and testing requirements be met before injection can be allowed. Of particular importance is condition number 13, which requires that Grace Petroleum either prove mechanical integrity of the wells to the satisfaction of EPA, or plug and abandon the wells within sixty days of the effective date of the permit. Please be sure to notify EPA at least one week in advance of any scheduled mechanical integrity tests, so that we can make arrangements to have a representative witness the tests.

- Page 2 -

Should you have any questions on this action, please contact Laura Clemmens at (303) 293-1419.

Sincerely,

A handwritten signature in cursive script, appearing to read "Max H. Dodson".

Max H. Dodson, Director
Water Management Division

Attachments: Final UIC Permit
Statement of Basis

cc: Edward Tebow
Robert Coffia
Dane Anderson

December 11, 1985

BUCK ELK #2 Document #4

TO: Jack Nance

FROM: Bill Baswell

SUBJECT: P&A Buck Elk #2 WDW
SW NE Section 7, T29N-R51E
N.W. Poplar Field
Roosevelt County, Montana

The Buck Elk #2 was drilled to a total depth of 5964' and was completed in the Charles 'B-1' in October 1955. The Charles 'B-1' IP'd at 242 BOPD flowing. The well was produced until November 1967, before being converted to a water disposal well. In November 1967 the Charles 'B-1' was plugged back, the Judith River squeezed with cement, the Judith River perforated (1140-57') and converted to a disposal well. The Judith River was used on a continuous basis for water disposal from December 1967 to June 1978 and with cumulative injection of 3,263,920 BW during that period. For the past three to four years the well was only used for emergency disposal and at the present time is not used for any disposal. The disposal line from the injection station to the well was recently removed to satisfy the BIA's and EPA's suspension of water disposal activities.

Based upon a recent hearing (May 1985) by the EPA and based upon an anticipated decision by the EPA on Judith River disposal wells, it is recommended that the currently shut-in Judith River disposal well be P&A'd. All Judith River water disposal wells in the Poplar area have been shut-in since the Judith River hearing and will remain shut-in. Attached, recently received, is some correspondence from the May 1985 Judith River hearing requesting additional information before the EPA reaches its final decision on Judith River disposal wells. It is believed that the EPA's final decision on the Judith River as a disposal zone will be not to permit any more and to discontinue the existing WDW's. It is also believed that the Judith River formation is too shallow to inject water into without potential damage to uphole fresh water.

Attached is an AFE and procedure to P&A the subject well at an estimated cost of \$9,700. Also attached is an equipment inventory list and the only salvageable equipment is a 32 joint string of 2-7/8" tubing. The injection plant at the subject well is being used to transfer produced water from the Buck Elk #1 and Cut Hair #1 wells to the Goings WDW. The Buck Elk lease consists of the Buck Elk #1 oil producing well and the Buck Elk #2 WDW. An AFD will not be required since the Buck Elk #1 is an active oil producer and will hold the lease.

It is recommended by Operations that the Buck Elk #2 WDW be P&A'd. GPC operates the Buck Elk lease with a 100% WI and a 87.5% NRI.

Bill Baswell



GRACE PETROLEUM CORPORATION

AUTHORIZATION FOR EXPENDITURE
SUMMARY OF ESTIMATED COST

6377

PROJECT TYPE C	WELL TYPE ***	AFE TYPE WRKOVF	SUPPLEMENT NO.	MAJOR/SUB	DATE 12/30/85
OPERATOR GRACE PETROLEUM CORP.		WELL NAME OR PROPERTY NAME BUCK ELK		WELL NO. TP 02-00	PROPERTY NO. 11390
REGION W		DISTRICT NO. 1	REGION NAME WESTERN	LAND PROSPECT NO.	PROSPECT NAME
BASIN NO. 74	BASIN NAME WILLISTON		LEGAL DESCRIPTION \$W NE		MASTER AFE NO. G-85-WTW-98032
STATE NO. 25	STATE NAME MONTANA		TARGET FORMATION JUDITH RIVER	WELL DEPTH 1,150	WORK AFE NO. 31-123085-01
COUNTY NO. 70	COUNTY NAME ROOSEVELT		BCP BASE W.I. 100.00000	ACP BASE W.I. 100.00000	PARTNERSHIP AFE NO.
ENG. FIELD NO. 585	ACCOUNTING FIELD NO.	FIELD NAME POPLAR	W.I. FORMULA NO. 01	PARTNERSHIP AFE NO.	

PROJECT DESCRIPTION
PLUG AND ABANDON BUCK ELK #2 WDW

	SUMMARY OF ESTIMATED COSTS	100% WORKING INTEREST			GRACE PETROLEUM INTEREST —			%
		ORIGINAL AFE	SUPPLEMENT	TOTAL	ORIGINAL AFE	SUPPLEMENT	TOTAL	
COMPLETED WELL COST	INTANGIBLE DRY-HOLE COST	\$	\$	\$	\$	\$	\$	
	INTANGIBLE COMPLETION COST	9,700		9,700	9,700		9,700	
	TANGIBLE DRY-HOLE COST							
	TANGIBLE COMPLETION COST							
	LEASE EQUIP. AND INSTALLATION							
	TOTAL COMPLETED COST	9,700		9,700	9,700		9,700	
DRY-HOLE COST	INTANGIBLE DRY-HOLE COST							
	TANGIBLE DRY-HOLE COST							
	TOTAL DRY-HOLE COST							
	GEOLOGICAL-LAND-LEGAL							

INTERNAL APPROVAL	APPROVED BY		DATE	APPROVED BY		DATE
	ORIGINATOR					
	BASWELL, B.		12/30/85			
	<i>K.H. Danner</i>		12/31/85			
	<i>J.H. Hill</i>		1/2/86			

BY EXECUTION HEREOF THE UNDERSIGNED RECOGNIZES AND ACKNOWLEDGES THAT THE ABOVE COST FIGURES ARE ESTIMATES ONLY AND THAT THE UNDERSIGNED IS RESPONSIBLE FOR ITS OR HIS SHARE OF THE ACTUAL COSTS INCURRED EVEN IF SUCH ACTUAL COSTS EXCEED SAID ESTIMATES.

EXTERNAL APPROVAL	NON-OPERATOR INTEREST OWNER	% INTEREST	NET AMOUNT	APPROVED	DATE APPROVED

BUDGET CALCULATIONS		\$
	AUTHORIZED BUDGET FOR THIS CATEGORY	\$
	PRIOR YEAR SURPLUS OR DEFICIT FOR THIS CATEGORY	\$
	APPROVED AFE'S WRITTEN FOR THIS CATEGORY	\$
	REMAINING AUTHORIZED BUDGET FOR THIS CATEGORY	\$
	WORKING AFE'S WRITTEN FOR THIS CATEGORY	\$
	THIS AFE	\$
	REMAINING AUTHORIZED BUDGET AFTER WORKING AFE'S	\$



GRACE PETROLEUM CORPORATION

Page 2 of 2

AUTHORIZATION FOR EXPENDITURE
DETAIL OF ESTIMATED COST

PROJECT TYPE C	WELL TYPE ***	AFE TYPE WRKOVF	SUPPLEMENT NO	COST/DEPTH	DATE 12/30/85
OPERATOR NAME GRACE PETROLEUM CORP.		WELL NAME OR PROPERTY NAME BUCK ELK		WELL NO TF 02-00	PROPERTY NO 11390
REGION W		DISTRICT NO 1	REGION NAME WESTERN	LAND PROSPECT NO	PROSPECT NAME
BASIN NO 74		BASIN NAME WILLISTON		LEGAL DESCRIPTION SW NE	MASTER AFE NO G-85-WIW-
STATE NO 25		STATE NAME MONTANA		TARGET FORMATION JUDITH RIVER	WORK AFE NO 31-123085-01
COUNTY NO 70		COUNTY NAME ROOSEVELT		ENG. FIELD NO 585	ACCOUNTING FIELD NO FIELD NAME POPLAR

PROJECT DESCRIPTION
PLUG AND ABANDON BUCK ELK #2 WDW

CODE	ITEM AND DESCRIPTION	DETAIL COMMENTS	DRY HOLE	COMPLETION	TOTAL
INTANGIBLE COSTS:					
01	DRILLING COSTS — FOOTAGE				
02	DRILLING COSTS — DAYWORK				
03	COMPLETION RIG	2 DAYS @ \$1500/DAY		3,000	3,000
04	TURNKEY (WELL) MI, RU, MO				
05	FUEL, WATER AND POWER				
06	MUD AND CHEMICALS			500	500
07	BITS AND COREHEADS				
08	SURVEY, ROADS & LOCATION				
23	DAMAGES				
09	GEOLOGICAL ENGR. & CONSULTANTS	2 DAY @ \$450/DAY		900	900
10	TESTING (DRILL STEM AND WIRELINE)				
11	LOGGING AND TEMPERATURE SURVEY				
12	CORING AND CORE ANALYSIS				
13	LABOR - CONTRACT			800	800
14	LABOR - COMPANY				
15	CEMENT & CEMENTING SERVICES			3,500	3,500
19	SQUEEZE & PLUG BACK				
16	FRACTURING				
17	ACIDIZING				
18	PERFORATING				
20	OVERHEAD AND DISTRICT EXPENSE				
22	RENTAL TOOLS AND EQUIPMENT				
25	INSURANCE *				
26	TRANSPORTATION			500	500
27	PLUGGING AND ABANDONING				
30	MUD LOGGER				
28	MISCELLANEOUS & UNFORESEEN			500	500
	TOTAL INTANGIBLE COSTS			9,700	9,700
TANGIBLE COSTS:					
24	CASING — CONDUCTOR				
51	CASING & F/E				
51	CASING & F/E				
51	CASING & F/E				
51	CASING & F/E				
52	TUBING AND TUBING SUBS				
53	SUBSURFACE EQUIPMENT				
50	WELL HEAD EQUIPMENT				
72	MISCELLANEOUS TANGIBLES				
	TOTAL TANGIBLE COSTS				
TANGIBLE INSTALLATION AND LEASE EQUIPMENT COSTS:					
54	ARTIFICIAL LIFT AND PRIME MOVER				
56	TANKS, SEPARATORS, ETC.				
58	HTR TREATER, FLOWLINE HTR, LTX				
60	LEASE LINES				
66	ELECTRICAL INSTALLATION				
75	MISCELLANEOUS CONNECTIONS				
74	INSTALLATION				
	TOTAL TANGIBLE INSTALLATION, ETC.				
	TOTAL AFE COSTS (100%)			9,700	9,700

REMARKS

*Code 25 applies to all wells. No other cost items are to be covered under this insurance policy.

INPUT AND/OR PRINTED BY: CAJ



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ONE DENVER PLACE — 999 18TH STREET — SUITE 1300
DENVER, COLORADO 80202-2413

DEC 30 1985

RECEIVED

REF: 8WM-DW

BUCK ELK #2 Document #6

JAN 2 1986

William F. Baswell, III
Operations Engineer
Grace Petroleum Corporation
143 Union Blvd., Suite 760
Lakewood, Colorado 80227

GPO ROCKY MOUNTAIN
REGION OPERATIONS

RE: ANNOUNCEMENT OF DECISION
Underground Injection Activities
into the Judith River Formation

Dear Mr. Baswell:

As you know, a public hearing was held in Poplar, Montana, on May 29, 1985, to hear testimony regarding our intent to issue a permit for the Goings No. 1 SWD Well. Another issue surrounding our intent to issue this permit, was whether or not EPA should allow other salt water disposal wells to inject into the Judith River Formation.

The Region VIII, Office of the Environmental Protection Agency is hereby rendering a decision concerning certain injection activities on the Fort Peck Reservation. A public notice will appear soon in the Billings Gazette and the Wolf Point Herald announcing that EPA has issued the final permit for the Goings No. 1 SWD Well, and that a Statement of Policy has been developed concerning injection into the Judith River Formation on the Fort Peck Reservation.

Enclosed are copies of the public notice and our Statement of Policy. Should you have any questions on either subject, please address them to the appropriate person as identified in the enclosed material.

Sincerely,

Max H. Dodson

Max H. Dodson, Director
Water Management Division

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
ONE DENVER PLACE — 999 18TH STREET — SUITE 1300
DENVER, COLORADO 80202-2413

Statement of Policy

Injection activities into the Judith River Formation
on the Fort Peck Reservation

BACKGROUND

EPA published a notice on December 27, 1984, in the Wolf Point Herald stating an intent to issue two Underground Injection Control (UIC) permits to Century Oil & Gas for the purpose of salt water fluid disposal. EPA encouraged public comments on the proposed actions. A notice appearing on January 15, 1985, extended the deadline for public comments on EPA's intended actions until February 15, 1985.

In a letter of January 29, 1985, the Fort Peck Tribes objected to the issuance of one of the two draft UIC permits which would allow injection through the Goings No. 1 Well. The objection was based on the Tribe's overall concern about the degradation of ground water on the Reservation. The Goings No. 1 Well is one of several injection wells which presently disposes of fluids into the Judith River Formation — an aquifer which the Tribe has requested be protected as an underground source of drinking water (USDW). The UIC regulations broadly define a USDW as an aquifer or its portion which both: 1) contains fewer than 10,000 mg/l total dissolved solids (TDS), and 2) is capable of supplying a public water system.

The Tribe subsequently requested a public hearing in order to present relevant information which would substantiate their request to preserve the Judith River Formation. The hearing was held on May 29, 1985, at the Poplar Activity Center.

CONCLUSIONS

The testimony and supporting documentation collected at the hearing were evaluated by EPA. The following discussions reflect the results of the technical evaluation and constitute EPA policy.

POLICY
STATEMENT
NO. 1

No new injection wells or converted wells will be allowed to dispose of fluids into the Judith River Formation where the TDS concentration is known to be less than 10,000 mg/l.

Discussion and Basis of Decision

Alternative sources of drinking water are currently available and are being used in the vicinity of the oil production. The principal sources (alluvium and glacial gravels; the Fox Hills and Fort Union aquifers) are located stratigraphically above the Judith River and have significantly higher quality water. The Judith River provides water for livestock use near the cities of Wolf Point and Glasgow. However, there are no known drinking water wells producing from the Judith River near any injection wells located in the eastern half of the Reservation.

Although there is no current domestic use of the Judith River aquifer in the eastern half of the reservation, the UIC regulations still afford protection of aquifers which exhibit fewer than 10,000 mg/l TDS. Based upon this authority, EPA adopts the policy to prohibit new injection wells into the Judith River where it is defined as a USDW. By doing so, EPA recognizes the concerns of the Tribe that the Judith River Formation be preserved for future use.

POLICY
STATEMENT
NO. 2

It is concluded that the Judith River Formation in the Deadman's Coulee and Poplar Fields located to the east, is not now, nor was it prior to injection activities, a USDW. The Judith River is also confined from overlying USDWs by 800 to 1,000 feet of shale. The existing injection wells in these fields will be authorized to continue injecting into the Judith River Formation as long as compliance with appropriate EPA rules and permits is maintained. The following injection wells have pending permit applications:

<u>EPA PERMIT</u>	<u>WELL NAME</u>	<u>FIELD</u>	<u>OPERATOR</u>
MTS21PR-0003	Goings No. 1	Poplar	Century Oil & Gas
MTS21PE-0009	Buck Elk No. 2	E. Poplar	Grace Petroleum
MTS21PE-0023	EPU 8-D	E. Poplar	Murphy Oil
MTS21PE-0024	EPU 29-D	E. Poplar	Murphy Oil
MTS21DM-0034	Allotted Hall	Deadman's Coulee	Reading & Bates

Discussion and Basis of Decision

Little water quality data are available for the Judith River Formation in the areas where most of the injection wells are located. However, a water analysis of a sample taken (prior to injection) from the Allotted Hall salt water disposal well, Deadman's Coulee Field, showed a TDS concentration greater than 10,000 mg/l. This sample was found to be reliable, based upon evaluation of the sampling technique. It is known that the formation downdips to the east and that TDS quality of the Judith River Formation increases from west to east. Therefore, the Judith River underlying the Poplar Field would also not qualify as a USDW.

Testimony presented by the Tribe asserted that injection fluids in the Poplar field may be forced to migrate updip and to the west (possibly to the far western edge of the Reservation) due to the fact that the Judith River Formation becomes pinched off by the Bearpaw Shale in the eastern portion of the Reservation. Pressure buildup effects, extending up to eight miles, may influence the natural ground water flow pattern. However, from evaluation of the data, ground water flow reversal is not likely to exceed more than two miles from any wellbore.

A more significant impact than a reversal in ground water flow, is likely to be a flattening of the pressure gradient in the Judith River Formation. This may indirectly affect the residence time of the native fluids migrating west to east, thereby increasing the TDS concentration. However, it is not possible to estimate any direct impacts.

POLICY
STATEMENT
No. 3

Existing injection wells, in fields other than Deadman's Coulee and Poplar, will be allowed to continue injection activities so long as: 1) they maintain compliance with EPA rules and pending permit conditions, and 2) they do not inject more fluid than can be contained in that portion of the Judith River which has been exempted as a USDW. It is EPA's decision to limit injection in these fields to the existing 1/4-mile aquifer exemption radius. This will be done by limiting the life of individual injection wells through the permitting process.

The following wells have pending permit applications or operators have been requested to submit permit applications:

<u>EPA PERMIT</u>	<u>WELL NAME</u>	<u>FIELD</u>	<u>OPERATOR</u>
MTS21TC-0039	Lough No. 2	Tule Creek	Petro Lewis Corp.
MTS21TE-0035	Lillian 1-D	East Tule Creek	Murphy Oil
MTS21TC-0036	Sletvold	Tule Creek	Murphy Oil
MTS21LS-0038	Mann No. 1	Long Creek	Pennzoil
MTS21TC-0086	*Phillips-McKee	Tule Creek	BHP Petroleum
	Wetsit No. 1	East Benrud	Murphy Oil
	Courchene 1-D	Volt	Murphy Oil
	Stai No. 1	East Benrud	Franks Petroleum

Discussion and Basis of Decision

Other fields where injection into the Judith River Formation is occurring are the Tule Creek, E. Tule Creek, Benrud, E. Benrud, Volt, and Long Creek. These fields lie west/northwest of the Deadman's Coulee and Poplar Fields and there is evidence that the Judith River Formation here may have contained fewer than 10,000 mg/l TDS before injection practices began.

The UIC regulations specifically prohibit injection into USDW's unless the aquifer is exempted. An aquifer exemption may be granted by EPA, and essentially allows injection into a formation which would otherwise be classified as a USDW but which is not likely to serve as a source of drinking water. All of the wells injecting into the Judith River Formation were granted aquifer exemptions for 1/4 mile radius from the wellbore at the inception of the UIC program in Montana on June 25, 1984. Notice of these aquifer exemptions was published in the FEDERAL REGISTER on September 2, 1983.

Using Judith River Formation characteristics and operating parameters for all the wells, calculations were done to determine the extent of formation fill-up from salt water disposal practices. These calculations are an estimate of how far the injection fluids have traveled from each wellbore. A factor of 25 percent was used in the calculations to safely accommodate uncertainty and pore volume inaccessibility to injected fluids.

In certain instances, injection wells have already surpassed the fill-up volume allowed by their authorized 1/4-mile aquifer exemptions. Permits for these wells will be denied and the operator will be required to properly plug and abandon the wells.

FOR MORE INFORMATION

EPA's technical evaluation report, the transcript of the hearing, and other pertinent documents, are available for inspection at the following locations:

Environmental Protection Agency
Region VIII
Drinking Water Branch 8WM-DW
One Denver Place, Suite 1300
999-18th Street
Denver, Colorado 80202-2413
Telephone: (303) 293-1415

Environmental Protection Agency
Montana Office
Federal Office Building
Drawer 10096
301 South Park
Helena, Montana 59626
Telephone: (406) 449-5486



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

ONE DENVER PLACE — 999 18TH STREET — SUITE 1300

DENVER, COLORADO 80202-2413

PUBLIC NOTICE
UNDERGROUND INJECTION CONTROL PROGRAM

FINAL DETERMINATION

Injection into the Judith River Formation
on the Fort Peck Reservation

PURPOSE OF PUBLIC NOTICE

The purpose of this notice is to inform interested parties that:

- (1) the U.S. Environmental Protection Agency (EPA) has developed a policy regarding the issuance of Underground Injection Control (UIC) permits on the Fort Peck Reservation for disposal of fluids into the Judith River Formation; and
- (2) EPA has made a determination to issue a final UIC permit for the Goings No. 1 Salt Water Disposal Well, located in the Poplar Field and operated by Century Oil & Gas.

BACKGROUND

EPA held a hearing on May 29, 1985, upon request of the Fort Peck Tribes, to gather factual information regarding hydrogeologic characteristics of the Judith River Formation, and to allow comments to be heard concerning EPA's intent to issue a UIC permit for continuation of salt water disposal into the Goings No. 1 Well. The Goings No. 1 Well is one of several disposal wells injecting fluids into the Judith River Formation. The Tribe has requested that the Judith River Formation be protected as an underground source of drinking water (USDW). The Goings No. 1 well was injecting prior to the inception of the UIC program (June 25, 1985), and is therefore classified as an existing well authorized by rule.

FINAL DECISIONS

A statement has been prepared which establishes EPA's policy on permitting existing and future wells that inject into the Judith River Formation on the Fort Peck Reservation. A copy of EPA's Statement of Policy is being sent concurrently with the publication of this notice to all attendees of the hearing as well as all persons who may be affected by the outcome of such a policy.

In addition, EPA has also made a final permit determination for the Goings No. 1 Well permit application. In the time period since the draft permit was issued in December, 1984, the Goings No. 1 Well failed a mechanical integrity test, was reworked to repair casing defects, and subsequently, passed a retesting of mechanical integrity. It has been determined that the well meets all UIC requirements and does not pose a threat to any underground source of drinking water. Therefore, a final permit is being issued on the date of publication of this notice with no changes from the draft permit. Upon issuance of the permit, authorization to inject into the Goings No. 1 Well will be transferred from rule to permit. This action is consistent with the policy mentioned above.

PERMIT APPEAL PROCESS

Within 30 days after a UIC final permit decision has been issued, any person who filed comments on that draft permit or participated in the public hearing may petition the Administrator of EPA to review any condition of the permit decision. Commentors are referred to 40 CFR 124.19 for procedural requirements of the appeal process.

FOR MORE INFORMATION

The Administrative Record for these actions contains:

- (1) the Goings No. 1 permit application, draft and final permits;
- (2) the official transcript of the hearing;
- (3) EPA's technical evaluation of the testimony presented at the hearing; and
- (4) EPA's Statement of Policy regarding injection activities and the Judith River Formation on the Fort Peck Reservation.

For further information, you may contact the following offices:

A. Concerning the Judith River Policy:

Environmental Protection Agency
Region VIII
Drinking Water Branch 8WM-DW
One Denver Place, Suite 1300
999-18th Street
Denver, Colorado 80202-2413

ATTN: Debra G. Ehlert
Telephone: (303) 293-1415

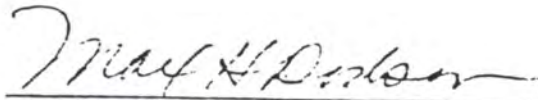
B. Concerning the Going No. 1 Permit:

Environmental Protection Agency
Montana Office
Federal Office Building
Drawer 10096
301 South Park
Helena, Montana 59626

ATTN: Jim Boyter
Telephone: (406) 449-5486

DEC 30 1985

Date of Publication



Max H. Dodson, Director
Water Management Division

LOCATE WELL CORRECTLY

•			

(SUBMIT IN TRIPLICATE)
TOOIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF MONTANA
BILLINGS OR SHELBY

LOG OF WELL

RECEIVED

MAY 5 - 1958

Company Richfield Oil Corporation Lease Buck Elk OIL AND GAS CONSERVATION COMMISSION
Address P.O. Box 631, Billings, Montana Field (or Area) East Poplar OF THE STATE OF MONTANA
The well is located 2014 ft. from (N) line and 639 ft. from (W) line of Sec. 7
Sec. 7; T. 29N; R. 51E; County Roosevelt; Elevation 2241' KB
(D.F., R.B. or G.L.)
Commenced drilling April 22, 1958; Completed April 30, 1958

The information given herewith is a complete and correct record of the well. The summary on this page is for the condition of the well at the above date.

Completion Suspended as a dry hole
(oil well, gas well, dry hole)

Signed R. L. Murray
Title Engineer
Date 5-2-58

IMPORTANT ZONES OF POROSITY

(denote oil by O, gas by G, water by W; state formation if known)

From 5924 to 5932' W Charles B-1 From _____ to _____
From 5943 to 5958' W Charles B-2 From _____ to _____
From _____ to _____ From _____ to _____
From _____ to _____ From _____ to _____

CASING RECORD

Size Casing	Weight Per Ft.	Grade	Thread	Casing Set	From	To	Sacks of Cement	Cut and Pulled from
10 3/4	32.75	H-40	8rd	325	12	337	460	
7	23 & 26	J-55	8rd	5952	12	5964	240	

TUBING RECORD

Size Tubing	Weight Per Ft.	Grade	Thread	Amount	Perforations

COMPLETION RECORD

Rotary tools were used from 0 to 5964
Cable tools were used from _____ to _____
Total depth 5964 ft.; Plugged back to 5933 T.D.; Open hole from _____ to _____

PERFORATIONS			ACIDIZED, SHOT, SAND FRACED, CEMENTED			
Interval	Number and Size and Type	Interval	Amount of Material Used	Pressure		
From To		From To				
5943 5949	24 Jets	5933 5949	25 sac cut-20 sac Baroid	2900#		
5925 5930	20 Jets	5925 5930	500 Galn Dowell DBA acid	3200#		

(If P&A show plugs above)

INITIAL PRODUCTION

Well is Suspended April 30, 1958 (pool) formation.

I. P. _____ barrels of oil per _____ hours (pumping or flowing)

_____ Mcf of gas per _____ hours.
_____ barrels of water per 24 hours, or 100 % W.C.
(OVER)

RECEIVED

MAY 7 1958

OIL AND GAS CONSERVATION COMMISSION
OF THE STATE OF MONTANA - BILLINGS

TO

Oil and Gas Conservation Comm.
of the State of Montana —
HELENA

BUCK ELK #2 Document #8

REPORT OF SUBSURFACE INJECTIONS

For Month of May, 19 82

Field East Poplar County Roosevelt Operator GRACE PETROLEUM CORPORATION
(A Subsidiary of W. R. Grace & Co.)
Unit or Lease Name Buck Elk Formation Injected Into Judith River
Injection Fluid (water, gas, air, LPG, etc.) Water
Source of Injection Fluid Madison
Type of Project (Secondary Recovery, Pressure Maint., Disposal) Disposal

INJECTION DATA

INJECTION WELL INFORMATION

Name No. Sec. Twp. Rge.

Monthly Inj.
bbls, MCF, galsCumulative Inj.
bbls, MCF, galsAvg. Surface
Inj. Pressure

Buck Elk

2W

7

29N

51E

2000

3,263,920

TOTALS

NOTE: Mail three (3) copies to the Oil and Gas Conservation Commission of the State of Montana, Helena, Montana, on or before the 20th day of each month following the month covered by the report. Separate report must be filed covering each injection project.

REMARKS:

By

Max Wallquist

Title

PRODUCTION CLERK.

Address

Three Park Central Suite 200

1515 Arapahoe Street

Denver, Colorado 80202

LODGED

1986
1 Jack Ramirez
2 Alexander, Laughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

733 11 11 47

PATRICIA A. McGUIRE

11/11/86

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11 Plaintiff,)
12 vs.) ORDER EXTENDING TIME TO
13 GRACE PETROLEUM CORPORATION,) RESPOND TO CERTAIN
14 Defendant.) DISCOVERY

15 Pursuant to the Motion of Defendant, Grace Petroleum
16 Corporation, and the attached affidavit of counsel showing good
17 cause, Grace Petroleum Corporation is hereby granted to and
18 including November 12, 1986, in which to serve its responses,
19 objections and/or answers to the United States' second request
20 for production, second set of interrogatories and first request
21 for admissions, each of which were on August 27, 1986, served.

22 DATED this 10 day of November, 1986.

23
24 PAUL G. HATFIELD

25 United States District Judge

20-5-1-2383
DEPARTMENT OF JUSTICE

NOV 14 1986

R
E
C
O
R
D

90-5-1-1-2383
Sec 3A

60-89-205

7

11-47-08-1-1

DEPARTMENT OF JUSTICE

OFFICE
BOARD
DIVISION

FEDERAL RECORDS CENTER

MATERIAL MUST NOT BE REMOVED FROM NOR ADDED TO THIS FILE

By order of the Attorney General

RETURN TO FILE UNIT FOR UPDATING EVERY 30 DAYS

FILE

Requested by

OFFICE
BOARD
DIVISION

Date Issued _____

Returned

[illegible]

28-02-8

11-7-86

90-5-1-1-2383

**TO
call**

90-5-1-1-2383-GEN-3

U.S. V GRACE PETROLEUM CORPORATION, A
SUBSIDIARY OF W.R. GRACE & COMPANY

EE From 8/20/1986 to 11/7/1986 00



DQ-3

FORM OBD-155
SEP. 85

Memorandum

D. A. H. B.



Subject

UNITED STATES v. Grace Petroleum
Corporation
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

11/7/86
CI 85-0429
CV 86-3-GF

To

From

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

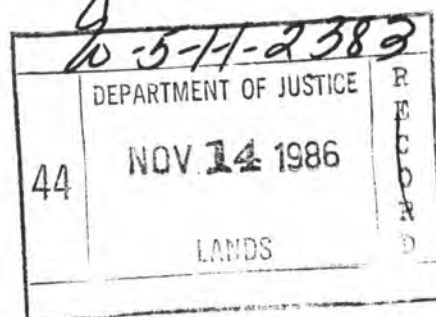
Enclosed are copies of defendant's Motion for Third Extension of Time to Respond to Certain Discovery, received 11/7/86.

Also enclosed are copies of the United States' Motion for Extension of Time to Respond to Discovery, received 11/7/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699



1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441



7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION
10

11 UNITED STATES OF AMERICA,)

Cause No. CV-86-003-GF-PGH

12 Plaintiff,)

13 vs.)

MOTION FOR THIRD EXTENSION
OF TIME TO RESPOND
TO CERTAIN DISCOVERY

14 GRACE PETROLEUM CORPORATION)

15 Defendant.)

16 COMES NOW the defendant, Grace Petroleum Corporation,
17 and timely moves this Court for its order granting a third
18 extension of time, for three more days, in which to respond,
19 object and/or answer to a second request for production of
20 documents, a second set of interrogatories and a first
21 request for admissions, each of which were on August 27,
22 1986, served by plaintiff, U.S.A. Defendant requests an
23 extension of three additional days, to and including November 12,
24 1986, in which to serve its responses, objections and/or
25 answers on the United States.

1 The Court may be further advised that undersigned counsel
2 has contacted the lead trial attorney for the United States,
3 Mr. Brian Donohue, regarding this motion to extend time
4 and Mr. Donohue has authorized us to represent that the govern-
5 ment has no objection to this motion.

6 A proposed Order is attached hereto.

7 DATED this 6th day of November, 1986.

8 CROWLEY, HAUGHEY, HANSON,
9 TOOLE & DIETRICH

10 By: 
11 James P. Sites

12 P.O. Box 2529
13 Billings, Montana 59103

14 Attorneys for Defendant

15 CERTIFICATE OF SERVICE

16 This is to certify that the foregoing was duly
17 served by mail upon parties or attorneys of re-
cord at their address or addresses this 6th
day of November, 1986

18 Crowley, Haughey, Hanson,
19 Toole & Dietrich

20 By: 
21 P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11 Plaintiff,)
12 vs.) AFFIDAVIT
13 GRACE PETROLEUM CORPORATION,)
14 Defendant.)

15 STATE OF MONTANA)
16) ss.
17 County of Yellowstone)

18 JAMES P. SITES, of lawful age, being first duly sworn upon
19 oath, deposes and says:

20 1. That this is a civil action commenced by the United
21 States of America for its Environmental Protection Agency.

22 2. That the firm of Crowley, Haughey, Hanson, Toole &
23 Dietrich represents the defendant, Grace Petroleum Corporation,
24 in this civil action. As a lawyer employed in the firm, James P.
25 Sites is assisting in the defense of this action.

3. On August 27, 1986, plaintiff, U.S.A., served its second
set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same,
3 under the Rules of Civil Procedure, unless extended, are due
4 today pursuant to an Order filed on October 28, 1986, extending
5 time for 10 days, on top of an initial extension grant to
6 and including October 27, 1986.

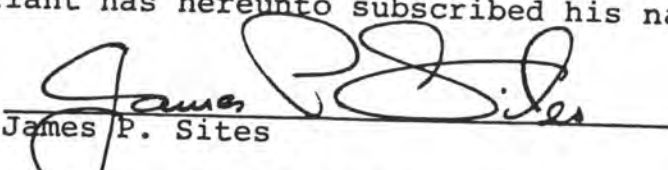
7 5. Defendant, Grace Petroleum Corporation, requires an
8 expansion in the deadline for serving its responses, objections
9 and/or answers to the above-described and pending governmental
10 discovery of three days, to and including November 12, 1986,
11 because of the voluminous nature of the discovery demands
12 and the continuing extraordinary and unexpected press of
13 other matters at the office.

14 6. The Court may be advised other discovery in the case
15 has proceeded and settlement negotiations have taken place.

16 7. The Court may be further advised that undersigned counsel
17 has contacted the lead trial attorney for the United States,
18 Mr. Brian Donohue, regarding this motion to extend time
19 and Mr. Donohue has authorized us to represent that the government
20 has no objection to this motion.

21 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

22 DATED: 11/6/86

23 
James P. Sites

24 Subscribed and sworn to before me this 6th day of

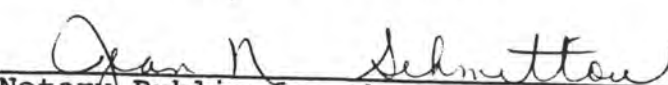
25 November, 1986.

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 6th
day of November, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By 
P.O. Box 2523 - Billings, Montana 59108


Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires: 10-7-87

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 vs.)

13 GRACE PETROLEUM CORPORATION,)

14 Defendant.)

Cause No. CV-86-003-GF-PGH

ORDER EXTENDING TIME TO
RESPOND TO CERTAIN
DISCOVERY

15 Pursuant to the Motion of Defendant, Grace Petroleum
16 Corporation, and the attached affidavit of counsel showing good
17 cause, Grace Petroleum Corporation is hereby granted to and
18 including November 12, 1986, in which to serve its responses,
19 objections and/or answers to the United States' second request
20 for production, second set of interrogatories and first request
21 for admissions, each of which were on August 27, 1986, served.

22 DATED this ____ day of November, 1986.

23
24
25 United States District Judge

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	
)	

UNITED STATES OF AMERICA'S MOTION FOR SECOND
EXTENSION OF TIME TO RESPOND TO DISCOVERY

The plaintiff, United States of America, by undersigned counsel, timely moves this Court for an order granting a second extension of time in which to respond, object and/or provide answers to a request for production of documents and interrogatories, each of which were served on the plaintiff by the defendant, Grace Petroleum Corporation, on September 4, 1986. The United States

earlier requested extension of 30 days, to and including November 5, 1986, in which to serve its responses, objections and/or answers to the defendant. That motion was granted by this Court on October 7, 1986. The United States hereby requests an additional ten (10) days, to and including November 15, 1986, in which to serve its responses, objections and/or answers to the defendant.

The undersigned has contacted one of the attorneys representing the defendant, James P. Sites, Esquire, and is authorized by him to represent that opposing counsel has no objection to the instant request for an extension of time. The motion is otherwise based on good cause, as reflected in the attached affidavit of counsel.

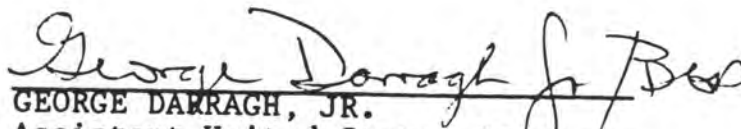
A proposed order is attached hereto.

Dated this 4th day of November, 1986.

Respectfully submitted,

BYRON DUNBAR
United States Attorney
District of Montana

By:


GEORGE DAMRAGH, JR.
Assistant United States Attorney
212 Federal Building
P.O. Box 3446
Great Falls, MT 59403
(406) 761-7715



BRIAN DONOHUE
Environmental Enforcement Section
Land and Natural Resources Division
Department of Justice
10th & Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 633-5590

OF COUNSEL:

ALFRED C. SMITH
United States Environmental
Protection Agency
Region VIII
One Denver Place - Suite 1300
999 18th Street
Denver, Colorado 80202-2413

ALAN MORRISSEY
United States Environmental
Protection Agency
401 M Street, S.W.
Washington, DC 20530

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil Action No.
	)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	

AFFIDAVIT

Brian G. Donohue, of lawful age, being first duly sworn
upon oath, disposes and says:

1. This is a civil action commenced by the United States
of America on behalf of the Environmental Protection Agency.

2. Undersigned counsel is the lead trial attorney for the United States in this matter.

3. On September 4, 1986, the defendant, Grace Petroleum Corporation, served interrogatories and a request for production on the United States.

4. Pursuant to an order of this Court dated October 7, 1986, responses to same are due on November 5, 1986.

5. The United States requires a ten (10) day expansion in the deadline for serving its responses, objections and/or answers to the above-described and pending discovery, to and including November 15, 1986, because of the voluminous nature of the discovery demands and the fact that eleven separate offices of the Environmental Protection Agency have to be canvassed in order to respond properly.

6. Other discovery in the case has proceeded and settlement discussions have taken place.

7 The United States recently waived objection to the defendant's request for a ten (10) day extension to discovery propounded on it by the United States.

8. One of the attorneys representing the defendant, James P. Sites, Esquire, has been contacted regarding this motion to extend time and has authorized me to represent that he has no objection to the motion.

IN WITNESS WHEREOF, Affiant has hereunto subscribed
his name.

11/4/86
Date

Brian G. Donohue
Brian G. Donohue

Subscribed and sworn to before me this 4th day of
November, 1986.

(Seal)

Pamela A. Nelson
Notary Public

My Commission expires 1/31/91

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused, on this 4th day of November, 1986, to be delivered by mail, postage prepaid, to Jack Ramirez, Esquire, 500 Transwestern Plaza II, P. O. Box 2529, Billings, MT 59103-2529, counsel for Grace Petroleum Corporation.



Attorney, United States of America

Memorandum



Subject	Date
UNITED STATES v. Grace Petroleum Corporation Ref: DTB:BGD:bab 90-5-1-1-2383	11/7/86 CI 85-0429 CV 86-3-GF

To

From

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of defendant's Motion for Third Extension of Time to Respond to Certain Discovery, received 11/7/86.

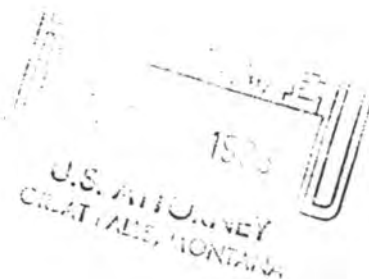
Also enclosed are copies of the United States' Motion for Extension of Time to Respond to Discovery, received 11/7/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

() (-)
1 Jack Ramirez
Crowley, Haughey, Hanson,
2 Toole, & Dietrich
P.O. Box 2529
3 Billings, MT 59103
4 406-252-3441
5
6
7
8
9
10



11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE DISTRICT OF MONTANA
13 GREAT FALLS DIVISION
14
15

11 UNITED STATES OF AMERICA,)
12)
13 Plaintiff,)
14)
15)

Cause No. CV-86-003-GF-PGH

11 vs.)
12)
13)
14)
15)

MOTION FOR THIRD EXTENSION
OF TIME TO RESPOND
TO CERTAIN DISCOVERY

11 GRACE PETROLEUM CORPORATION)
12)
13)
14)
15 Defendant.)


16 COMES NOW the defendant, Grace Petroleum Corporation,
17 and timely moves this Court for its order granting a third
18 extension of time, for three more days, in which to respond,
19 object and/or answer to a second request for production of
20 documents, a second set of interrogatories and a first
21 request for admissions, each of which were on August 27,
22 1986, served by plaintiff, U.S.A. Defendant requests an
23 extension of three additional days, to and including November 12,
24 1986, in which to serve its responses, objections and/or
25 answers on the United States.

1 The Court may be further advised that undersigned counsel
2 has contacted the lead trial attorney for the United States,
3 Mr. Brian Donohue, regarding this motion to extend time
4 and Mr. Donohue has authorized us to represent that the govern-
5 ment has no objection to this motion.

6 A proposed Order is attached hereto.

7 DATED this 6th day of November, 1986.

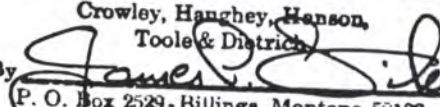
8 CROWLEY, HAUGHEY, HANSON,
9 TOOLE & DIETRICH

10 By: 
11 James R. Sites
12 P.O. Box 2529
13 Billings, Montana 59103

14 Attorneys for Defendant

15 CERTIFICATE OF SERVICE

16 This is to certify that the foregoing was duly
17 served by mail upon parties or attorneys of re-
cord at their address or addresses this 6th
day of November, 1986

18 Crowley, Haughey, Hanson,
19 Toole & Dietrich
20 By: 
21 P. O. Box 2529 - Billings, Montana 59108
22
23
24
25

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11 Plaintiff,)
12 vs.)
13 GRACE PETROLEUM CORPORATION,)
14 Defendant.)

AFFIDAVIT

15 STATE OF MONTANA)
16) ss.
17 County of Yellowstone)

18 JAMES P. SITES, of lawful age, being first duly sworn upon
19 oath, deposes and says:

20 1. That this is a civil action commenced by the United
21 States of America for its Environmental Protection Agency.

22 2. That the firm of Crowley, Haughey, Hanson, Toole &
23 Dietrich represents the defendant, Grace Petroleum Corporation,
24 in this civil action. As a lawyer employed in the firm, James P.
25 Sites is assisting in the defense of this action.

3. On August 27, 1986, plaintiff, U.S.A., served its second
set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same,
3 under the Rules of Civil Procedure, unless extended, are due
4 today pursuant to an Order filed on October 28, 1986, extending
5 time for 10 days, on top of an initial extension grant to
6 and including October 27, 1986.

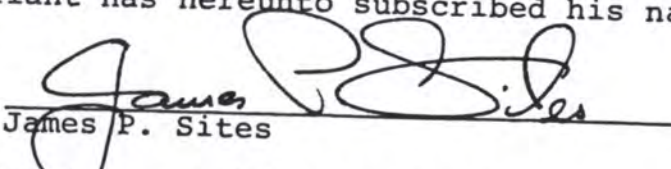
7 5. Defendant, Grace Petroleum Corporation, requires an
8 expansion in the deadline for serving its responses, objections
9 and/or answers to the above-described and pending governmental
10 discovery of three days, to and including November 12, 1986,
11 because of the voluminous nature of the discovery demands
12 and the continuing extraordinary and unexpected press of
13 other matters at the office.

14 6. The Court may be advised other discovery in the case
15 has proceeded and settlement negotiations have taken place.

16 7. The Court may be further advised that undersigned counsel
17 has contacted the lead trial attorney for the United States,
18 Mr. Brian Donohue, regarding this motion to extend time
19 and Mr. Donohue has authorized us to represent that the government
20 has no objection to this motion.

21 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

22 DATED: 11/6/86

23 
James P. Sites

24 Subscribed and sworn to before me this 6th day of

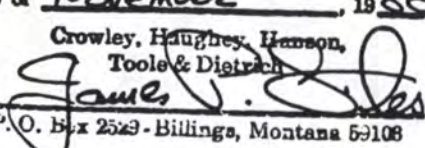
25 November, 1986.

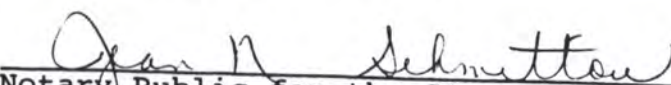
CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 6th
day of November, 1986

Crowley, Hughes, Hanson,
Toole & Dietrich

By


P.O. Box 2529 - Billings, Montana 59108


Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires: 10-7-87

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 vs.

13 GRACE PETROLEUM CORPORATION,
14 Defendant.

Cause No. CV-86-003-GF-PGH

ORDER EXTENDING TIME TO
RESPOND TO CERTAIN
DISCOVERY

15 Pursuant to the Motion of Defendant, Grace Petroleum
16 Corporation, and the attached affidavit of counsel showing good
17 cause, Grace Petroleum Corporation is hereby granted to and
18 including November 12, 1986, in which to serve its responses,
19 objections and/or answers to the United States' second request
20 for production, second set of interrogatories and first request
21 for admissions, each of which were on August 27, 1986, served.

22 DATED this _____ day of November, 1986.

23
24
25
United States District Judge

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	
)	

Thiel
UNITED STATES OF AMERICA'S MOTION FOR ~~SECOND~~
EXTENSION OF TIME TO RESPOND TO DISCOVERY

The plaintiff, United States of America, by undersigned
counsel, timely moves this Court for an order granting a *Thiel*
extension of time in which to respond, object and/or provide answers
to a request for production of documents and interrogatories, each
of which were served on the plaintiff by the defendant, Grace
Petroleum Corporation, on September 4, 1986. The United States



BRIAN DONOHUE
Environmental Enforcement Section
Land and Natural Resources Division
Department of Justice
10th & Pennsylvania Avenue, N.W.
Washington, DC 20530
(202) 633-5590

OF COUNSEL:

ALFRED C. SMITH
United States Environmental
Protection Agency
Region VIII
One Denver Place - Suite 1300
999 18th Street
Denver, Colorado 80202-2413

ALAN MORRISSEY
United States Environmental
Protection Agency
401 M Street, S.W.
Washington, DC 20530

F. HENRY HABICHT II
Assistant Attorney General
Land and Natural Resources Division
United States Department of Justice
Washington, DC 20530

BRIAN G. DONOHUE
Attorney, Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, DC 20530

BYRON H. DUNBAR
United States Attorney
GEORGE F. DARRAGH, JR.
Assistant United States Attorney
P.O. Box 3446
Great Falls, MT 59403
Telephone: (406) 761-7715

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.	)	Civil Action No.
	)	CV-860-03-GF-PGH
)	
GRACE PETROLEUM CORPORATION,)	
)	
Defendant.)	
)	
)	

AFFIDAVIT

Brian G. Donohue, of lawful age, being first duly sworn
upon oath, disposes and says:

1. This is a civil action commenced by the United States
of America on behalf of the Environmental Protection Agency.

2. Undersigned counsel is the lead trial attorney for the United States in this matter.

3. On September 4, 1986, the defendant, Grace Petroleum Corporation, served interrogatories and a request for production on the United States.

4. Pursuant to an order of this Court dated ~~October 7,~~ ^{November 5,} 1986, responses to same are due on November 15, 1986.

5. The United States requires a ^{five (5)} ~~ten (10)~~ day expansion in the deadline for serving its responses, objections and/or answers to the above-described and pending discovery, to and including November ~~15,~~ ²⁰ 1986, ~~because of the voluminous nature of the discovery demands and the fact that eleven separate offices of the Environmental Protection Agency have to be canvassed in order to respond properly.~~ ^{Responses to the defendant's discovery requests were signed by the affiant and attested to by a witness from EPA Headquarters. Both the affiant and the EPA witness are stationed in Washington, D.C. The responses were then referred to EPA Regional attorney assigned to the case to procure the signature of a Regional witness.}

6. Other discovery in the case has proceeded and settlement discussions have taken place.

7. The United States recently waived objection to the defendant's request for ^{in short} ~~a ten (10) day~~ extension to discovery propounded on it by the United States.

8. ~~One of the attorneys representing the defendant, James P. Sites, Esquire, has been contacted regarding this motion to extend time and has authorized me to represent that he has no objection to the motion.~~ ^{Undesignated counsel has attempted to contact counsel for Grace regarding this motion. Though undesignated counsel has been unable to reach counsel for Grace, further attempts will be made to do so and the Court will be promptly advised of Grace's position.}

^{thereafter}
~~Unfortunately~~ and deliver same to the defendant. The defendant, however, has yet receive same which ~~will~~ require the affiant to prepare another copy and ~~obtain~~ ^{the} signatures of the EPA witnesses.

IN WITNESS WHEREOF, Affiant has hereunto subscribed
his name.

11/4/86
Date

Brian G. Donohue
Brian G. Donohue

Subscribed and sworn to before me this 4th day of
November, 1986.

(Seal)

Pamela A. Nelson
Notary Public

My Commission expires 1/31/91

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was caused, on this 14th day of November, 1986, to be delivered by mail, postage prepaid, to Jack Ramirez, Esquire, 500 Transwestern Plaza II, P. O. Box 2529, Billings, MT 59103-2529, counsel for Grace Petroleum Corporation.



Attorney, United States of America

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

11/6/86

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

11 UNITED STATES OF AMERICA,
12 Plaintiff,

13 vs.

14 GRACE PETROLEUM CORPORATION
15 Defendant.

Cause No. CV-86-003-GF-PGH

MOTION FOR THIRD EXTENSION
OF TIME TO RESPOND
TO CERTAIN DISCOVERY

16 COMES NOW the defendant, Grace Petroleum Corporation,
17 and timely moves this Court for its order granting a third
18 extension of time, for three more days, in which to respond,
19 object and/or answer to a second request for production of
20 documents, a second set of interrogatories and a first
21 request for admissions, each of which were on August 27,
22 1986, served by plaintiff, U.S.A. Defendant requests an
23 extension of three additional days, to and including November 12,
24 1986, in which to serve its responses, objections and/or
25 answers on the United States.

20-5-11-2383

44	DEPARTMENT OF JUSTICE	R E C O R D
	NOV 10 1986	
	LANDS	

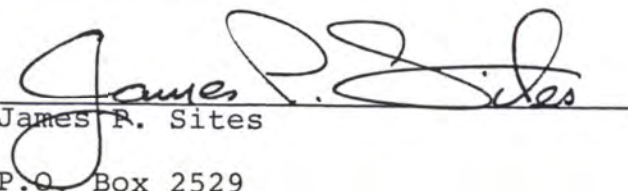
1 The Court may be further advised that undersigned counsel
2 has contacted the lead trial attorney for the United States,
3 Mr. Brian Donohue, regarding this motion to extend time
4 and Mr. Donohue has authorized us to represent that the govern-
5 ment has no objection to this motion.

6 A proposed Order is attached hereto.

7 DATED this 6th day of November, 1986.

8 CROWLEY, HAUGHEY, HANSON,
9 TOOLE & DIETRICH

10 By:

11 
James P. Sites

12 P.O. Box 2529

13 Billings, Montana 59103

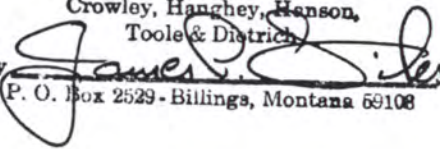
14 Attorneys for Defendant

15 CERTIFICATE OF SERVICE

16 This is to certify that the foregoing was duly
17 served by mail upon parties or attorneys of re-
cord at their address or addresses this 6th
day of November, 1986.

18 Crowley, Haughey, Hanson,
19 Toole & Dietrich

20 By:

21 
22 P. O. Box 2529 - Billings, Montana 59108
23
24
25

1 Jack Ramirez
Crowley, Haughey, Hanson,
2 Toole, & Dietrich
P.O. Box 2529
3 Billings, MT 59103
406-252-3441
4

5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE DISTRICT OF MONTANA
7 GREAT FALLS DIVISION
8

9 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
10)
11)

Plaintiff,)

11 vs.)

AFFIDAVIT

12 GRACE PETROLEUM CORPORATION,)
13)

Defendant.)

14 STATE OF MONTANA)

) ss.

15 County of Yellowstone)

16 JAMES P. SITES, of lawful age, being first duly sworn upon
17 oath, deposes and says:

18 1. That this is a civil action commenced by the United
19 States of America for its Environmental Protection Agency.

20 2. That the firm of Crowley, Haughey, Hanson, Toole &
21 Dietrich represents the defendant, Grace Petroleum Corporation,
22 in this civil action. As a lawyer employed in the firm, James P.
23 Sites is assisting in the defense of this action.

24 3. On August 27, 1986, plaintiff, U.S.A., served its second
25 set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same,
3 under the Rules of Civil Procedure, unless extended, are due
4 today pursuant to an Order filed on October 28, 1986, extending
5 time for 10 days, on top of an initial extension grant to
6 and including October 27, 1986.

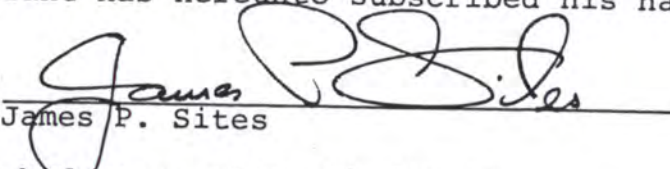
7 5. Defendant, Grace Petroleum Corporation, requires an
8 expansion in the deadline for serving its responses, objections
9 and/or answers to the above-described and pending governmental
10 discovery of three days, to and including November 12, 1986,
11 because of the voluminous nature of the discovery demands
12 and the continuing extraordinary and unexpected press of
13 other matters at the office.

14 6. The Court may be advised other discovery in the case
15 has proceeded and settlement negotiations have taken place.

16 7. The Court may be further advised that undersigned counsel
17 has contacted the lead trial attorney for the United States,
18 Mr. Brian Donohue, regarding this motion to extend time
19 and Mr. Donohue has authorized us to represent that the government
20 has no objection to this motion.

21 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

22 DATED: 11/6/86

23 
James P. Sites

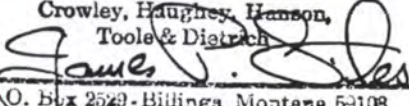
24 Subscribed and sworn to before me this 6th day of

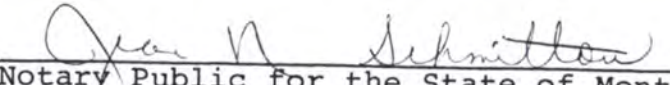
25 November, 1986.

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 6th
day of November, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By 
P.O. Box 2549 - Billings, Montana 59108


Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires: 10-7-87

1 Jack Ramirez
Crowley, Haughey, Hanson,
2 Toole, & Dietrich
P.O. Box 2529
3 Billings, MT 59103
406-252-3441
4
5

6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF MONTANA
8 GREAT FALLS DIVISION
9

10 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
11 Plaintiff,	)	<u>ORDER EXTENDING TIME TO</u>
	)	<u>RESPOND TO CERTAIN</u>
12 vs.	)	<u>DISCOVERY</u>
)	
13 GRACE PETROLEUM CORPORATION,)	
)	
14 Defendant.)	

15 Pursuant to the Motion of Defendant, Grace Petroleum
16 Corporation, and the attached affidavit of counsel showing good
17 cause, Grace Petroleum Corporation is hereby granted to and
18 including November 12, 1986, in which to serve its responses,
19 objections and/or answers to the United States' second request
20 for production, second set of interrogatories and first request
21 for admissions, each of which were on August 27, 1986, served.

22 DATED this _____ day of November, 1986.
23
24
25

United States District Judge

LODGED

NOV 5 1986

LOU ALENSICH, JR. CLERK

By

Deputy Clerk

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
GRACE PETROLEUM CORPORATION,)
)
Defendant.)

Cause No. CV-86-003-GF-PGH

ORDER EXTENDING TIME TO RESPOND
TO CERTAIN DISCOVERY

Pursuant to the motion of the United States of America, and the attached affidavit of counsel showing good cause and that opposing counsel has no objection to the motion, the United States is hereby granted to and including November 15, 1986, in which to serve its responses, objections and/or answers to a request for production of documents and interrogatories of Grace Petroleum Corporation, each of which were served by mail on September 4, 1986.

Dated this 5 day of November, 1986.

Paul B. Ziegler
United States District Judge

9
A-5-11-2383

44	DEPARTMENT OF JUSTICE	RECORD
	NOV 10 1986	
WARDS TO		
POLICE		

Memorandum

Donohue, B



10/27/86

Subject

UNITED STATES v. Grace Petroleum
Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

10/29/86
CI 85-0429
CV 86-3-GF

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of defendant's Motion for Second Extension
of Time to Respond to Certain Discovery, received on 10/28/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

44

90-5-1-1-2383	
DEPARTMENT OF JUSTICE	
NOV 5 1986	
LANDS	
ATTORNEY GENERAL	

RECORD

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441



7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION
10

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)

13 vs.)

14 GRACE PETROLEUM CORPORATION)
15 Defendant.)

Cause No. CV-86-003-GF-PGH

MOTION FOR SECOND EXTENSION
OF TIME TO RESPOND
TO CERTAIN DISCOVERY

16 COMES NOW the defendant, Grace Petroleum Corporation,
17 and timely moves this Court for its order granting a second
18 extension of time, for 10 more days, in which to respond,
19 object and/or answer to a second request for production of
20 documents, a second set of interrogatories and a first
21 request for admissions, each of which were on August 27,
22 1986 served by plaintiff, U.S.A. Defendant requests an
23 extension of 10 additional days, to and including November 6,
24 1986, in which to serve its responses, objections and/or
25 answers on the United States.


1 The Court may be further advised that undersigned counsel
2 has contacted the lead trial attorney for the United States,
3 Mr. Brian Donohue, regarding this motion to extend time
4 and Mr. Donohue has authorized us to represent that the government
5 has no objection to this motion.

6 A proposed Order is attached hereto.

7 DATED this 27th day of October, 1986.

8 CROWLEY, HAUGHEY, HANSON,
9 TOOLE & DIETRICH

10
11 By:


James P. Sites

12 P.O. Box 2529
13 Billings, Montana 59103

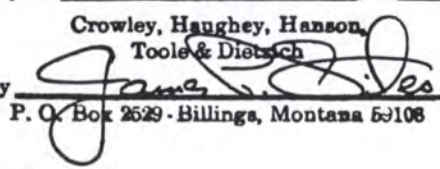
14 Attorneys for Defendant
15
16
17
18
19
20
21

22 **CERTIFICATE OF SERVICE**

23 This is to certify that the foregoing was duly
24 served by mail upon parties or attorneys of re-
25 cord at their address or addresses this 27
day of October, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By


P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,)

Cause No. CV-86-003-GF-PGH

11 Plaintiff,)

12 vs.)

AFFIDAVIT

13 GRACE PETROLEUM CORPORATION,)

14 Defendant.)

15 STATE OF MONTANA)

ss.

16 County of Yellowstone)

17 JAMES P. SITES, of lawful age, being first duly sworn upon
18 oath, deposes and says:

19 1. That this is a civil action commenced by the United
20 States of America for its Environmental Protection Agency.

21 2. That the firm of Crowley, Haughey, Hanson, Toole &
22 Dietrich represents the defendant, Grace Petroleum Corporation,
23 in this civil action. As a lawyer employed in the firm, James P.
24 Sites is assisting in the defense of this action.

25 3. On August 27, 1986, plaintiff, U.S.A., served its second
set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same,
3 under the Rules of Civil Procedure, unless extended, are due
4 today pursuant to an Order filed on October 2, 1986, extending
5 time for 30 days.

6 5. Defendant, Grace Petroleum Corporation, requires an
7 expansion in the deadline for serving its responses, objections
8 and/or answers to the above-described and pending governmental
9 discovery of 10 days, to and including November 6, 1986,
10 because of the voluminous nature of the discovery demands
11 and the continuing extraordinary and unexpected press of
12 other matters at the office.

13 6. The Court may be advised other discovery in the case
14 has proceeded and settlement negotiations have taken place.

15 7. The Court may be further advised that undersigned counsel
16 has contacted the lead trial attorney for the United States,
17 Mr. Brian Donohue, regarding this motion to extend time
18 and Mr. Donohue has authorized us to represent that the government
19 has no objection to this motion.

20 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

21
22 DATED: 10/27/86

James P. Sites
James P. Sites

23 Subscribed and sworn to before me this 27th day of
24 October, 1986.

25
CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail upon parties or attorneys of record at their address or addresses this day of 27 October My Commission expires: 7/28/87

(SEAL)

Betty A. Miller
Notary Public for the State of Montana
Residing at Billings, Montana

By James P. Sites
Crowley, Haughey, Hanson,
Toole & Dietrich
P. O. Box 2529 - Billings, Montana 59103

Memorandum



Subject	Date
UNITED STATES v. Grace Petroleum Corp. Ref: DTB:BGD:bab 90-5-1-1-2383	10/29/86 CI 85-0429 CV 86-3-GF

To

From

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of defendant's Motion for Second Extension of Time to Respond to Certain Discovery, received on 10/28/86.

Enc.

d1m

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441



7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION
10

11 UNITED STATES OF AMERICA,)
12 Plaintiff,)

13 vs.)

14 GRACE PETROLEUM CORPORATION)
15 Defendant.)

Cause No. CV-86-003-GF-PGH

MOTION FOR SECOND EXTENSION
OF TIME TO RESPOND
TO CERTAIN DISCOVERY

16 COMES NOW the defendant, Grace Petroleum Corporation,
17 and timely moves this Court for its order granting a second
18 extension of time, for 10 more days, in which to respond,
19 object and/or answer to a second request for production of
20 documents, a second set of interrogatories and a first
21 request for admissions, each of which were on August 27,
22 1986 served by plaintiff, U.S.A. Defendant requests an
23 extension of 10 additional days, to and including November 6,
24 1986, in which to serve its responses, objections and/or
25 answers on the United States.

1 The Court may be further advised that undersigned counsel
2 has contacted the lead trial attorney for the United States,
3 Mr. Brian Donohue, regarding this motion to extend time
4 and Mr. Donohue has authorized us to represent that the government
5 has no objection to this motion.

6 A proposed Order is attached hereto.

7 DATED this 27th day of October, 1986.

8 CROWLEY, HAUGHEY, HANSON,
9 TOOLE & DIETRICH

10
11 By: 

James P. Sites

12 P.O. Box 2529
13 Billings, Montana 59103

14 Attorneys for Defendant
15
16
17
18
19
20
21

22 **CERTIFICATE OF SERVICE**

23 This is to certify that the foregoing was duly
24 served by mail upon parties or attorneys of re-
25 cord at their address or addresses this 27
day of October, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By: 

P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,)

Cause No. CV-86-003-GF-PGH

11 Plaintiff,)

12 vs.)

AFFIDAVIT

13 GRACE PETROLEUM CORPORATION,)

14 Defendant.)

15 STATE OF MONTANA)

ss.

16 County of Yellowstone)

17 JAMES P. SITES, of lawful age, being first duly sworn upon
18 oath, deposes and says:

19 1. That this is a civil action commenced by the United
20 States of America for its Environmental Protection Agency.

21 2. That the firm of Crowley, Haughey, Hanson, Toole &
22 Dietrich represents the defendant, Grace Petroleum Corporation,
23 in this civil action. As a lawyer employed in the firm, James P.
24 Sites is assisting in the defense of this action.

25 3. On August 27, 1986, plaintiff, U.S.A., served its second
set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same,
3 under the Rules of Civil Procedure, unless extended, are due
4 today pursuant to an Order filed on October 2, 1986, extending
5 time for 30 days.

6 5. Defendant, Grace Petroleum Corporation, requires an
7 expansion in the deadline for serving its responses, objections
8 and/or answers to the above-described and pending governmental
9 discovery of 10 days, to and including November 6, 1986,
10 because of the voluminous nature of the discovery demands
11 and the continuing extraordinary and unexpected press of
12 other matters at the office.

13 6. The Court may be advised other discovery in the case
14 has proceeded and settlement negotiations have taken place.

15 7. The Court may be further advised that undersigned counsel
16 has contacted the lead trial attorney for the United States,
17 Mr. Brian Donohue, regarding this motion to extend time
18 and Mr. Donohue has authorized us to represent that the government
19 has no objection to this motion.

20 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

21
22 DATED: 10/27/86

James P. Sites
James P. Sites

23 Subscribed and sworn to before me this 27th day of
24 October, 1986.

25
(SEAL) CERTIFICATE OF SERVICE
This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this
day of 27 October My Commission expires: 7/28/87
Betty A. Miller
Notary Public for the State of Montana
Residing at Billings, Montana
Crowley, Haughey, Hanson,
Toole & Dietrich
By James P. Sites
P. O. Box 2529 - Billings, Montana 59103

Donohue, B

10/27/86

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

11 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
12 Plaintiff,)
13 vs.) MOTION FOR SECOND EXTENSION
14 GRACE PETROLEUM CORPORATION) OF TIME TO RESPOND
15 Defendant.) TO CERTAIN DISCOVERY

16 COMES NOW the defendant, Grace Petroleum Corporation,
17 and timely moves this Court for its order granting a second
18 extension of time, for 10 more days, in which to respond,
19 object and/or answer to a second request for production of
20 documents, a second set of interrogatories and a first
21 request for admissions, each of which were on August 27,
22 1986 served by plaintiff, U.S.A. Defendant requests an
23 extension of 10 additional days, to and including November 6,
24 1986, in which to serve its responses, objections and/or
25 answers on the United States.

9-5-11-2383

44	DEP	OCT 31 1986
----	-----	-------------

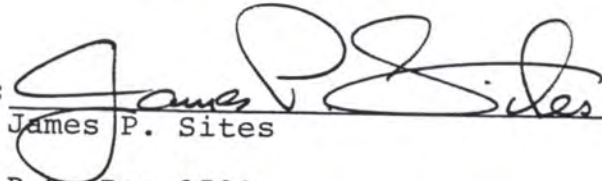
1 The Court may be further advised that undersigned counsel
2 has contacted the lead trial attorney for the United States,
3 Mr. Brian Donohue, regarding this motion to extend time
4 and Mr. Donohue has authorized us to represent that the government
5 has no objection to this motion.

6 A proposed Order is attached hereto.

7 DATED this 27th day of October, 1986.

8 CROWLEY, HAUGHEY, HANSON,
9 TOOLE & DIETRICH

10 By:

11 
James P. Sites

12 P.O. Box 2529
13 Billings, Montana 59103

14 Attorneys for Defendant
15
16
17
18
19
20
21

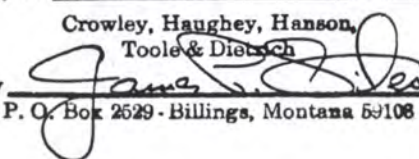
22 **CERTIFICATE OF SERVICE**

23 This is to certify that the foregoing was duly
24 served by mail upon parties or attorneys of re-
25 cord at their address or addresses this 27

day of October, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By:


P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE DISTRICT OF MONTANA
10
11 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) AFFIDAVIT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)
21
22 STATE OF MONTANA)
23) ss.
24 County of Yellowstone)
25

1 JAMES P. SITES, of lawful age, being first duly sworn upon
2 oath, deposes and says:

3 1. That this is a civil action commenced by the United
4 States of America for its Environmental Protection Agency.

5 2. That the firm of Crowley, Haughey, Hanson, Toole &
6 Dietrich represents the defendant, Grace Petroleum Corporation,
7 in this civil action. As a lawyer employed in the firm, James P.
8 Sites is assisting in the defense of this action.

9 3. On August 27, 1986, plaintiff, U.S.A., served its second
10 set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same,
3 under the Rules of Civil Procedure, unless extended, are due
4 today pursuant to an Order filed on October 2, 1986, extending
5 time for 30 days.

6 5. Defendant, Grace Petroleum Corporation, requires an
7 expansion in the deadline for serving its responses, objections
8 and/or answers to the above-described and pending governmental
9 discovery of 10 days, to and including November 6, 1986,
10 because of the voluminous nature of the discovery demands
11 and the continuing extraordinary and unexpected press of
12 other matters at the office.

13 6. The Court may be advised other discovery in the case
14 has proceeded and settlement negotiations have taken place.

15 7. The Court may be further advised that undersigned counsel
16 has contacted the lead trial attorney for the United States,
17 Mr. Brian Donohue, regarding this motion to extend time
18 and Mr. Donohue has authorized us to represent that the government
19 has no objection to this motion.

20 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

21
22 DATED: 10/27/86

James P. Sites
James P. Sites

23 Subscribed and sworn to before me this 27th day of
24 October, 1986.

25
CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this
day of 27 October, 1986

(SEAL)

Betty A. Miller
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires: 7/28/87

By James P. Sites
Crowley, Haughey, Hanson
Toole & Dietrich
P. O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11)
12 Plaintiff,) ORDER EXTENDING TIME TO
13 vs.) RESPOND TO CERTAIN
14) DISCOVERY
15 GRACE PETROLEUM CORPORATION,)
16)
17 Defendant.)

18 Pursuant to the Motion of Defendant, Grace Petroleum
19 Corporation, and the attached affidavit of counsel showing good
20 cause, Grace Petroleum Corporation is hereby granted to and
21 including November 6, 1986, in which to serve its responses,
22 objections and/or answers to the United States' second request
23 for production, second set of interrogatories and first request
24 for admissions, each of which were on August 27, 1986, served.

25 DATED this _____ day of October, 1986.

United States District Judge

Memorandum



10/30/86

Subject

UNITED STATES v. Grace Petroleum
Corporation
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

10/30/86
CI 85-0429
CV 86-3-GF

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of Judge Hatfield's Order granting the defendant up to 11/6/86 to respond to certain discovery. This order was signed and filed 10/28/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

90-5-1-1-2383

44	DEPARTMENT OF JUSTICE	R
	NOV 5 1986	E
	LANDS	R
		D

LODGED

OCT 27 1986

FILED

OCT 28 11 234

By ~~DAK RAMIREZ~~
Crowley, Haughey, Hanson,
Dietrich
P.O. Box 2529
Billings, MT 59103
406-252-3441

BY *Marilyn Blades*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,
Plaintiff,
vs.

GRACE PETROLEUM CORPORATION,
Defendant.

Cause No. CV-86-003-GF-PGH
ORDER EXTENDING TIME TO
RESPOND TO CERTAIN
DISCOVERY

Pursuant to the Motion of Defendant, Grace Petroleum Corporation, and the attached affidavit of counsel showing good cause, Grace Petroleum Corporation is hereby granted to and including November 6, 1986, in which to serve its responses, objections and/or answers to the United States' second request for production, second set of interrogatories and first request for admissions, each of which were on August 27, 1986, served.

DATED this 26 day of October, 1986.

David B. Lange
United States District Judge

Memorandum



Subject

UNITED STATES v. Grace Petroleum
Corporation
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

10/30/86
CI 85-0429
CV 86-3-GF

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of Judge Hatfield's Order granting the defendant up to 11/6/86 to respond to certain discovery. This order was signed and filed 10/28/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

LODGED

OCT 27 1986

By ~~DAK RAMIREZ~~ CLERK

2 Crowley, Haughey, Hanson,
3 ~~Wolfe~~ Clerk & Dietrich,
4 P.O. Box 2529
5 Billings, MT 59103
6 406-252-3441

FILED
OCT 28 11 2:34

BY *Marilyn Bladde*

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
11 .)	
12 Plaintiff,	)	<u>ORDER EXTENDING TIME TO</u>
13 vs.	)	<u>RESPOND TO CERTAIN</u>
14 GRACE PETROLEUM CORPORATION,	)	<u>DISCOVERY</u>
15 Defendant.)	

15 Pursuant to the Motion of Defendant, Grace Petroleum
16 Corporation, and the attached affidavit of counsel showing good
17 cause, Grace Petroleum Corporation is hereby granted to and
18 including November 6, 1986, in which to serve its responses,
19 objections and/or answers to the United States' second request
20 for production, second set of interrogatories and first request
21 for admissions, each of which were on August 27, 1986, served.

22 DATED this 26 day of October, 1986.

23 *David B. Lange*
24 _____
25 United States District Judge

LODGED

FILED

Don't let B

10/27/1986

1986 OCT 28 PM 2:35

1 LOU ALEKSI, JR. CLERK
2 ~~Jack Ramirez~~
3 ~~Crowley, Haughey, Hanson,~~
4 ~~Teale, & Dietrich~~
5 P.O. Box 2529
6 Billings, MT 59103
7 406-252-3441

LOU ALEKSI, JR. CLERK
MARLYN GRADES
BY DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

10 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
11 Plaintiff,)
12 vs.) ORDER EXTENDING TIME TO
13 GRACE PETROLEUM CORPORATION,) RESPOND TO CERTAIN
14 Defendant.) DISCOVERY

15 Pursuant to the Motion of Defendant, Grace Petroleum
16 Corporation, and the attached affidavit of counsel showing good
17 cause, Grace Petroleum Corporation is hereby granted to and
18 including November 6, 1986, in which to serve its responses,
19 objections and/or answers to the United States' second request
20 for production, second set of interrogatories and first request
21 for admissions, each of which were on August 27, 1986, served.

22 DATED this 28 day of October, 1986.

23
24 PAUL G. HATFIELD, DEPARTMENT
25 United States District Judge

3 NOV 4 1986

LABUS

LANDS DIVISION
POLLUTION, ENFORCEMENT

Donohue, B

FILED

IN THE UNITED STATES DISTRICT COURT 44

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

DEPUTY CLERK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GRACE PETROLEUM CORPORATION,

Defendant.

Cause No. CV-86-003-GF-PGH

LODGED

OCT 6 - 1986

ORDER EXTENDING TIME TO RESPOND
TO CERTAIN DISCOVERY

LOU ALENSICH, JR. CLERK

By Deputy Clerk Pursuant to the motion of the United States of America, and the attached affidavit of counsel showing good cause and that opposing counsel has no objection to the motion, the United States is hereby granted to and including November 5, 1986, in which to serve its responses, objections and/or answers to a request for production of documents and interrogatories of Grace Petroleum Corporation, each of which were served by mail on September 4, 1986.

Dated this 7 day of October, 1986.

Paul B. Lange
United States District Judge



10-5-11-2383	
44	DEPARTMENT OF JUSTICE
OCT 14 1986	
LANDS	
RECORD	

Memorandum

Donohue



Subject

UNITED STATES v. Grace Petroleum Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

9/30/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of Judge Hatfield's Order setting forth extended discovery deadlines. This order was signed and filed 9/4/86.

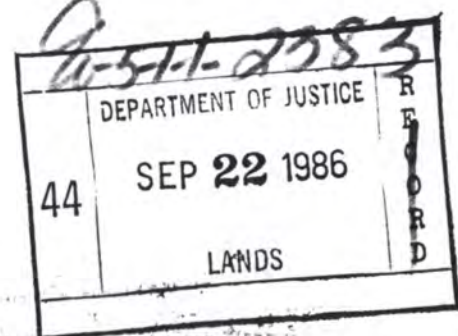
Also enclosed are copies of Defendant's Answers to Plaintiff's First Set of Interrogatories and Request for Production of Documents, received on 9/10/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

9/9/86



Emergency
Docket

SEP 6 1986
U.S. ATTORNEY
GREAT FALLS, MONTANA

FILED
1986 SEP -4 PM 3:46
LOU ALERSON, JR. CLERK
BY RENATE WELDELE
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,)	
	Plaintiff,	) NO. CV-86-003-GF
vs.)	
GRACE PETROLEUM CORPORATION,	)	<u>ORDER</u>
Defendant.)	

Upon motion of the defendant, and the plaintiff
concurring therein,

IT IS HEREBY ORDERED that the discovery schedule
entered by the court in its order of April 23, 1986, is
VACATED, and the deadlines are extended as set out below.

IT IS FURTHER ORDERED that the parties shall adhere
to the following schedule designed for the timely and
orderly disposition of this matter:

1. All motions for leave to amend the pleadings,
including such motions designed to join additional
parties, shall be filed on or before October 15, 1986.

2. All discovery shall be completed on or before January 30, 1987. With respect to the specific methods of discovery the parties shall:

a. Serve all requests for admissions on or before December 30, 1986. The party upon whom the requests are served shall have the time specified by Rule 36(a), Federal Rules of Civil Procedure, within which to serve answers or objections addressed to the matters in the requests for admission.

b. Serve all requests for production of documents on or before December 30, 1986. The party upon whom the requests are served shall have the time specified by Rule 34(b), Federal Rules of Civil Procedure, within which to serve a response or objection to the request.

c. Serve all interrogatories on or before December 30, 1986. The party upon whom the interrogatories are served shall have the time specified by Rule 33(a), Federal Rules of Civil Procedure, within which to serve answers to the interrogatories. If some interrogatories cannot be answered within that time, a reason shall be stated for the failure to so answer.

The present order regarding interrogatories contemplates inclusion of answers supplementing previously answered interrogatories. In that regard, the court is particularly concerned with complete disclosure of the identity of expert witnesses. The intent of the present deadline, inter alia, is to insure that the parties fully

respond to all interrogatories regarding expert witnesses by the date set forth.

d. The identity of each person expected to be called as a witness shall be disclosed on or before December 15, 1986.

e. Notice all depositions to be taken on or before January 16, 1987. Said notice shall be served upon all other parties at least ten (10) days in advance of the date scheduled for a deposition. All depositions, including depositions for the perpetuation of testimony, are to be taken on or before January 30, 1987.

3. Attend an attorneys' pretrial conference, to be convened by counsel for the plaintiff, for the purpose of assisting counsel in the preparation of a pretrial order, on or before February 13, 1987.

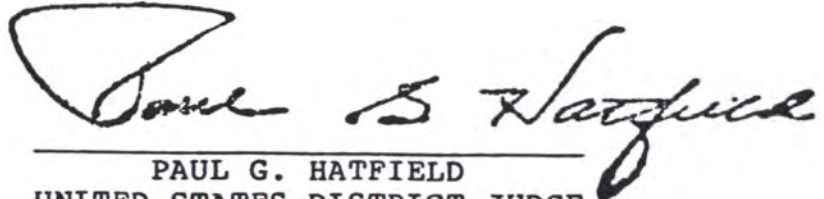
4. File a pretrial order, prepared in accordance with Rule 235-6 of the rules of this court, on or before February 27, 1987.

5. File all motions on or before February 27, 1987. If the court determines that a hearing on said motion is necessary, the court will schedule a hearing and notify the parties accordingly.

IT IS FURTHER ORDERED that the foregoing schedule shall not be modified without leave of court upon a showing of good cause. ANY MOTION SEEKING LEAVE TO MODIFY THE DISCOVERY SCHEDULE SHALL BE ACCOMPANIED BY AN AFFIDAVIT OF COUNSEL FOR THE MOVING PARTY STATING THE

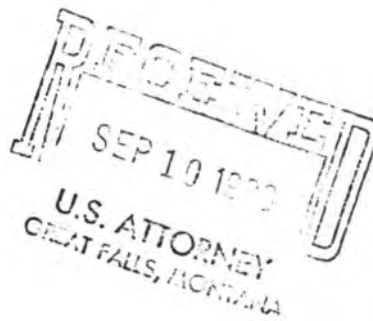
REASONS FOR SUCH MODIFICATION. IN ADDITION, THE MOTION SHALL BE ACCOMPANIED BY A WRITTEN STIPULATION OF COUNSEL FOR ALL PARTIES IF THERE EXISTS A CONSENSUS ON THE NEED FOR SUCH MODIFICATION, OR OTHERWISE STATE WHICH PARTIES OBJECT TO SUCH MODIFICATION.

DATED this 4th day of September, 1987.



PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant



8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>DEFENDANT'S ANSWERS TO</u>
	)	<u>PLAINTIFF'S FIRST SET OF</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>INTERROGATORIES</u>
)	
16 Defendant.)	

17
18 Defendant answers plaintiff's First Set of Interrogato-
19 ries as follows:

20 The defendant objects to Instructions 1 through 15 on
21 the grounds that they attempt to impose burdens on the defendant
beyond the requirements of the Federal Rules of Civil Procedure.

22 1. State the location and full address of Grace's
23 headquarters.

24 ANSWER: Grace Petroleum Corporation
25 6501 North Broadway
Oklahoma City, Oklahoma 73116

1 2. Identify each of the members of the Board of Direc-
2 tors of Grace since January 1984, and the period of service for
 each of the members.

3 ANSWER: The identity of the members of the Board of Directors of
4 Grace Petroleum Corporation is presented in attached document
 #I-1.

5 3. Identify each of the officers of Grace since
6 January, 1984, and state the period of service for each of the
 officers in each position during that time.

7 ANSWER: The identity of the officers of Grace Petroleum Corpora-
8 tion is presented in attached document #I-1.

9 4. Identify the person or persons primarily responsible
10 within Grace for pollution control activities and compliance with
 environmental regulations from January 1984 to present.

11 ANSWER: The defendant objects to this interrogatory on the
12 grounds that it is excessively broad, burdensome and oppressive.
13 The interrogatory seeks, without limitation, persons primarily
14 responsible for any pollution control activities, of any kind, and
15 compliance with any environmental regulations, state or federal,
16 of any kind, without regard to the Poplar Field in question. To
17 respond, therefore, the defendant would have to list numerous
18 managers who deal with field which are irrelevant to the present
 case. Without waiving its objection, the defendant states that
 managers at the district level in the Grace organizational struc-
 ture are primarily responsible for pollution control. For the
 relevant names, see the answer to Interrogatory No. 6, below. The
 managers are assisted in compliance with environmental regulations
 by the Corporate Manager of Security and Regulatory Affairs, who
 was for the period in question Bob J. Coffia.

19 5. Identify the person or persons primarily responsible
20 for fiscal matters within Grace from January 1984 to present.

21 ANSWER: Gene C. Victory, Senior Vice president and Chief Finan-
22 cial Officer.

23 6. Identify the person or persons at Grace primarily
24 responsible for pollution control and compliance with environmen-
25 tal regulations at the Poplar Field, Roosevelt County, Montana,
 site from January 1984 to present.

ANSWER: Persons primarily responsible within Grace for pollution
 control at Poplar Field were, and are, as follows:

1	1-01-84 to 2-01-84	Richard A. Higgins, Retired
2		1363 Park Place
3		Broomfield, Colorado
		Denver District Production Manager
4	2-01-84 to 2-05-85	James E. Johnson. Last
5		information is that he is cur-
6		rently in Pakistan, employed
7		by Union of Texas, Houston,
		Texas
		Denver District Production Manager
8	2-05-85 to 4-01-85	Kenneth H. Dowell
9		Grace Petroleum
10		6501 West Broadway
		Oklahoma City, Oklahoma 73116
		Production Manager
11	4-01-85 to 6-15-86	Jack Nance
12		1511 Ridgecrest
13		Odessa, Texas 79763
		Denver District Operations Manager
14	6-15-86 to Present	Kenneth H. Dowell
15		Denver District Operations Manager
16	1-01-84 to Present	*Bob J. Coffia,
17		Grace Petroleum
18		Corporate Manager of Security and Regulatory Affairs
19		*Coordinator of compliance with environmental requirements.

7. Identify the district manager at Grace responsible for operations at the Poplar Field site from January 1984 to present.

ANSWER: District Managers at Grace responsible for operations at Poplar Field site from January 1984 to present are as follows:

2-01-84 to 2-05-85	James E. Johnson
2-05-85 to 4-01-85	Kenneth H. Dowell
4-01-85 to 6-15-86	Jack Nance
6-15-86 to Present	Kenneth H. Dowell

1 8. Identify all persons who have worked or do work for
2 Grace or have been consultants or work for consultants hired by
3 Grace who have information regarding any of the following sub-
4 jects:

5 (a) any communications with EPA in 1984 requesting that
6 the Company apply for permits for its injection wells located in
7 the Poplar Field and any subsequent requests to cease injection
8 activities at this site;

9 (b) Grace's decision-making, during the period January
10 1984 to present, regarding permits for underground injection
11 activities;

12 (c) the effect of salt water disposed of by injection
13 wells at the Poplar Field site on underground sources of drinking
14 water as defined in 40 C.F.R. 144.3;

15 (d) Grace's progress in obtaining permits for injection
16 wells operating in the Poplar Field or otherwise bringing them
17 into compliance with EPA's UIC regulations.

18 ANSWER: (a) The best information available is that, until
19 August 20, 1984, no one except James E. Johnson, Denver District
20 Production Manager, and his immediate staff, Operations Engineer
21 Don Smith (now with Premier Resources, Suite 2100, 6000 17th
22 Street, Denver, Colorado 80202), and summer employee Matt Strever,
23 knew of EPA's request of June 25 to submit applications for
24 permits to operate the wells in question. It was not until August
25 20 that EPA's order of August 16 was made known to B. J. Coffia,
Grace Corporate Environmental Manager-Coordinator in Oklahoma
City. It is believed that at the same time, Don Sterns (last
known address, Edmond, Oklahoma), Vice President and General
Manager of the Western Region of Grace, was informed of the
matter.

(b) Organizationally, Mr. Johnson reported to Mr.
Sterne in connection with decision making. With the exception of
utilization of B. J. Coffia, Environmental Manager-Coordinator, to
assist on a limited basis in the preparation of responses to
correct deficiencies outlined in EPA's Notice of August 20, 1984,
no other persons are known to have been involved in decision-
making until February 1985. Reorganization of Grace Petroleum
Corporation in March 1985 through transition period commencing in
January, the departure of Don Stern at that time, followed by the
resignation of James E. Johnson effective March 15, 1985, shifted
responsibility for decision-making to Jack Hill, newly appointed
Vice President and Manager of Operations and his immediate subor-
dinate, Production Manager, Kenneth H. Dowell. Primary

1 ANSWER: BLM Form #9-329, MONTHLY REPORT OF OPERATIONS, and
2 Montana form #5, REPORT OF SUBSURFACE INJECTIONS indicate the
following:

	<u>GOINGS GOV'T #SWD</u>	<u>EPU LL0-XD</u>
3		
4	August 49,406 Barrels	51,870 Barrels
5	September 46,381 Barrels	53,790 Barrels

6 210,447 Barrels Divided by 61 days = 3302.4 Barrels/Day

7 12. For each well identified in your answer to interrog-
8 atory 10, state the total volume of salt water injected for each
day of the period July 31, 1984, to September 28, 1984.

9 ANSWER: 3302.4 barrels per day times 59 days (July 31 through
September 27, 1984) = 194,841.6 barrels.

10 13. Identify other alternative(s) considered by Grace
11 for disposing of the salt water which you disposed of by means of
the injection wells listed in your answer to interrogatory 10 for
12 the period July 31, 1984 to September 28, 1984, and provide an
estimate of the cost of each alternative.

13 ANSWER: The alternative of hauling water to off-site disposal was
14 discussed with Mr. Johnson on August 20, 1984. It is not known to
what extent Mr. Johnson considered off-site disposal. The remain-
15 ing alternative was to shut the field in and bear the loss of
produced oil. It is likewise not known to what extent Mr. Johnson
16 considered this alterantive. At the time, the defendant was in
touch with the EPA regarding the injection wells, and the defen-
17 dant felt it was working toward a satisfactory resolution of the
problem. It is known that on October 2, 1984, Mr. Johnson dic-
18 tated a memorandum in which he made estimates of these alterna-
tives, apparently in regard to the applications for emergency
19 permits. Economic studies now indicate that off-site disposal of
water amounted to \$1.20 per barrel. Without consideration of
20 curtailment of production during August and September, the dis-
posal of approximately 195,000 barrels of water at \$1.20 per
21 barrel would have been in excess of \$230,000. Economic studies on
field shut-in also now indicate that expenses to maintain shut-in
22 conditions would have been exceeded \$33,000. Added to the loss of
9,000+ barrels of oil production, the total loss would have been
23 \$285,000.

24 14. State if there were any mechanical integrity tests
performed on the wells listed in your answer to interrogatory 10.
25 If the answer is yes, state:

- 1 (a) whether there are reports for any of these wells;
2 (b) the results of all integrity tests conducted on
3 said wells since June 1984.

4 ANSWER: (a) Mechanical integrity tests, as defined in the
5 interrogatories, were run on all wells on October 12, 1984. The
6 wells did not withstand the test. Mechanical integrity tests, as
7 defined, were not required prior to that time. Other tests were
8 run on May 21 and 22, 1985 on Goings Gov't.

9 (b) In the EPU 110-XD, efforts were commenced on
10 10-15-84 to correct downhole problems in order to establish
11 mechanical integrity. A second mechanical integrity test was
12 conducted on February 16, 1985 without success. On April 30, 1985
13 a plan was recommended to rehabilitate the well. Tests indicated
14 casing leaks from 5540' up to 1130'. On May 9, 1985 a decision
15 was made to plug and abandon. On May 20, 1985, a P&A report was
16 submitted to EPA and Montana Oil and Gas Conservation Commission.

17 On February 7, 1985, the defendant commenced an effort
18 to repair the Goings Gov't #1. The defendant ran a tracer pro-
19 file. Injection was confined to Dakota zone. The casing was
20 pressure tested and held at 160 psi. From March 4, 1985, through
21 March 7, 1985, a test of 4½" casing from surface to 3586' was
22 conducted. Several leaks were found between 1271' to 3371'. A
23 Cement Bond Log disclosed the top of cement at 2950'. On April
24 16, 1986, the EPA approved the defendant's plan to cement a 2-7/8"
25 tubing string inside the 4½" casing from 3590' to the surface. A
pressure test on May 21, 1985, was successful. On May 23, 1985,
the defendant recommenced injection operations with EPA approval.

15. For those persons identified in your answer to
interrogatory 8, state the following:

- 19 (a) the length of employment with Grace;
20 (b) each person's position with Grace;
21 (c) each person's professional background; and
22 (d) each person's specific duties.

23 ANSWER:

24 DON STERNE

- 25 (a) Employed 9-01-73. Terminated 1-15-85.

1 (b) Vice President and General Manger of Western Region
2 during period in question.

3 (c) Registered Professional Petroleum Engineer.

4 (d) Primary responsibility for oil and gas production,
5 and drilling operations in Colorado, Montana, Wyoming,
6 North and South Dakota, Nebraska, Utah, Northern New
7 Mexico, West Texas and California.

8 JAMES E. JOHNSON

9 (a) Employed 5-01-79. Resigned effective 3-15-85.

10 (b) Denver District Operations Manager.

11 (c) Professional Petroleum Engineer.

12 (d) Primary responsibility for oil and gas production
13 and drilling operations in Colorado, Montana, Wyoming,
14 North and South Dakota, Utah and Northern New Mexico.

15 DON SMITH

16 (a) Employed 7-24-80. Terminated 11-30-84.

17 (b) Operations Engineer.

18 (c) Professional petroleum Engineer.

19 (d) Responsible for care and upkeep of assigned wells
20 in district. Maintain liaison between Management and
21 Field Operations in terms of Daily production, wells in
22 need of repair, etc. Reviews and approves all invoices
23 from service contractors, designs methods for efficiency
24 in connection with oil and gas production.

25 MATT STREVER

(a) Summertime employee, 1984.

(b) Engineering Technical Assistant in Grace Denver
Office.

(c) Petroleum Engineering student.

(d) Assisted generally with technical matters encoun-
tered in Denver office, including assisting in the

1 preparation of permit applications on the Goings Govern-
2 ment #1, SWD, the EPU 110-XD and the Buck Elk #2.

3 KENNETH E. DOWELL

4 (a) Commenced employment on 7-21-77 (currently em-
5 ployed).

6 (b) Production Manager until 6-15-86.

7 (c) Professional Petroleum Engineer.

8 (d) Primarily responsible, on regional basis, for
9 production operations in several districts assigned to
10 position. Following reorganization in January 1985, and
11 resignation of James E. Johnson, assumed duties as
12 interim Denver District Operations Manager. Relin-
13 quished duties on 4-01-85 and re-assumed duties on
14 6-15-86.

15 JACK D. HILL

16 (a) Employed by Grace of 3-27-78. (Current employed)

17 (b) Vice president and Manager of Operations as of 1-01-85.

18 (c) Registered Professional Petroleum Engineer.

19 (d) Responsible for the direction of all operational
20 matters. Reports to Executive Vice President and
21 President of company on operational matters.

22 BOB J. COFFIA

23 (a) Employed by Grace on 11-15-78. (Currently em-
24 ployed)

25 (b) Holds title of Manager of Security and Regulatory
Affairs (included in which is coordinator of Environ-
mental matters).

(c) Professional Law Enforcement (retired).

(d) Primary responsibility for security of equipment,
supplies, materials, and products produced by company.
Additionally, responsible for the safety and health of
employees while monitoring federal, state and local
environmental requirements and coordinating with opera-
tions managers in order to advance compliance.

1 JACK NANCE

2 (a) Employed 3-15-74. Terminated 6-15-86.

3 (b) District Operations Manager.

4 (d) Performed Engineering and Management duties without
5 benefit of engineering degree. Primarily responsible
6 for all aspects of operations within the district to
which assigned. Assignment in Denver District same as
that described for James E. Johnson.

7 16. In regard to Paragraph 15 of the complaint, concern-
8 ing notification by EPA to Grace requesting applications for UIC
permits, indicate :

9 (a) if such notice(s) was(were) received by Grace;

10 (b) at which Grace office such notice(s) was(were)
11 received;

12 (c) the date of receipt of such notice(s) by Grace;

13 (d) whether such notice(s) contained application(s) for
UIC permits;

14 (e) when Grace began to complete said application(s);

15 (f) when each such application was completed by Grace;

16 (g) when and how such applications were returned to EPA
17 from Grace.

18 ANSWER:

(a) Letter was received by Grace.

19 (b) Letter was received by Grace Denver District office
only.

20 (c) Letter logged in at Denver office on June 27, 1984.

21 (d) It is assumed, but not known, that application
22 forms accompanied the letter.

23 (e) Statements given by Matt Strever indicate that he
24 was assigned by Mr. Johnson to commence the task on or
25 about July 15, 1984.

1 (f) According to Matt Strever, gathering and prepara-
2 tion of the required data was completed on August 1,
1984.

3 (g) Each application was, in package form, addressed to
4 Chief, Drinking Water Branch, U. S. Environmental
5 Protection Agency (8 WM-DW), 1860 Lincoln Street,
6 Denver, Colorado 80295, and placed in the registered
mail (#P423 791 636) August 1, 1984. (Copies are
attached).

7 17. State whether there are any documents regarding
8 communications between Matt Strever and EPA regarding the Grace
injection wells in the Poplar Field, and include a description of
the nature of such documents.

9 ANSWER: Matt Strever has told defendant and has testified that he
10 kept a log of contacts with the EPA. Matt Strever also prepared a
11 memorandum of his contacts with the EPA. A copy of his memorandum
has been furnished with his affidavit. The defendant has searched
for but has not been able to locate Mr. Strever's logs.

12 18. Describe the operation of Grace's Lakewood, Colorado
13 office since January, 1984, and identify each person who was
employed at that location by Grace during that period.

14 ANSWER: Grace's Lakewood, Colorado office was established in
15 early June, 1984, following a move from 3 Park Central, 1515
16 Arapahoe, downtown Denver. From approximately 1973 until March 1,
1984, the district office was headed by now retired R. A. Higgins.
17 Responsibility for operations in the district was assumed by James
E. "Jim" Johnson on appointment by then Vice President and General
Manager of Grace Region, Donald L. Sterne.

18 Mr. Johnson supervised a staff of one operations engi-
19 neer, Don Smith, and two clerical assistants, Marge Criss and Mary
20 Schafer. The staff was increased by one on April 1, 1984, by the
21 movement of M. T. "Tim" Jordan from California to serve as Field
22 Superintendent in a district encompassing the states of Colorado,
Wyoming, Montana, North and South Dakota, Nebraska, Utah, and
Northern New Mexico. Engineering student Matt Strever was hired
to work part-time while school was in session and to work full-
time during the summer months.

23 Within this widely separated area, Mr. Johnson and his
24 staff were charged with the operation and maintenance of 148
25 active wells, in addition to monitoring 853 wells operated by
other companies in which Grace had an interest.

1 Production Engineer, Don Smith, was terminated on
2 November 30, 1984. Following Mr. Johnson's resignation, effective
3 March 15, 1985, Kenneth H. Dowell, a professional petroleum
4 engineer with many years experience, assumed the managerial duties
5 associated with the Denver District. On March 15, 1985, opera-
6 tions Engineer Bill Baswell was assigned to the office. On June
15, 1986, responsibility shifted to Kenneth H. Dowell. See answer
to Interrogatory No. 8(b). Mr. Dowell guided the district until
April 1, 1985, when Jack Nance was moved laterally from an Oklaho-
ma district to the Denver district.

7 19. State whether Grace maintains copies of telephone
8 bills from the period January 1, 1984 to present, which delineate
9 long distance telephone calls, including but not limited to, bills
delineating telephone calls to any EPA office from Grace's
Lakewood, Colorado office.

10 ANSWER: Mountain Bell Telephone Company provides the telephone
11 service to the Denver district office. The service in use in 1984
12 included a local general service line and a WATS system, both
13 incoming and outgoing. Upon receipt of monthly bills from Moun-
14 tain Bell, only long distance calls made on the local general
15 service lines are delineated. The telephone company does not
16 routinely provide its customers with a printout of WATS usage
17 except hours of actual use, number of messages, hours and minutes
per message, chargeable hours, average lines in service, and
average use per line. Efforts, however, have successfully been
made to obtain these records. The defendant understands that
records cannot be obtained regarding local calls made to the
Denver EPA office; long-distance calls made between the Denver
and the Helena, Montana, EPA offices; or long-distance calls made
from the Helena, Montana, EPA office to defendant's office in
Lakewood, Colorado.

18 20. Indicate which long distance telephone carrier
19 Grace's Lakewood office utilized during the period January 1, 1984
20 to present and supply all account numbers, telephone numbers, or
other identification in this regard.

21 ANSWER: Mountain Bell Telephone bills indicate that the long
22 distance carrier was AT&T during the period in question. Tele-
23 phone and account numbers are contained in the records obtained
from Mountain Bell in the deposition of Judy N. Graham.

24 21. State the volume of salt water produced at the
25 production wells, which were served by the injection wells de-
scribed in your answer to Interrogatory 10, during the period
October 1984 to May 1985. If such water was not injected, indi-
cate:

- 1 (a) whether the salt water was hauled and injected
elsewhere;
- 2 (b) who hauled and/or injected said water;
- 3 (c) the cost of such hauling;
- 4 (d) the cost of such injection;
- 5 (e) whether there were any contracts, documents, or
6 other writings relating to your responses to (a) through
7 (d) above.

8 ANSWER: During the months of October, 1984 through May, 1985,
116,440 barrels of water were produced in connection with oil
9 production at Grace Poplar Field. The remaining answers are as
follows:

- 10 (a) The water was hauled and injected elsewhere.
- 11 (b) The water was hauled by Strauser Oil Well Operating
12 Service, Poplar, Montana.
- 13 (c) The cost of hauling was calculated at \$0.699 per
barrel.
- 14 (d) The cost of injection, or disposal, was \$0.50 per
15 barrel.
- 16 (e) Grace is in the possession of all invoices from
17 Strauser and Century Oil and Gas Corporation reflecting
hauling and disposal charges.

18 22. Describe all contacts between Grace and EPA between
June 25, 1984 and the date suit was filed therein, which relate to
19 the allegations contained in the complaint.

20 ANSWER: The defendant objects to this interrogatory on the
grounds that is overly broad, burdensome and oppressive. The
21 interrogatory is also too vague to permit a meaningful response in
that it refers to "contacts" and all the "allegations contained in
22 the complaint. This information is best obtained by depositions
of the employees of the defendant and the EPA.

23 23. Identify all experts expected to testify at trials,
stating the subject matter on which the expert is expected to
24 testify, and the substance of the facts and opinions to which the
expert is expected to testify with a summary of the grounds for
25 each opinion.

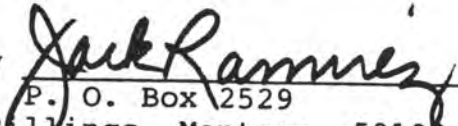
1 ANSWER: No expert witnesses have been identified yet.

2 24. Identify all witnesses other than those identified
3 in your answer to Interrogatory 21 who are expected to testify at
4 trial, summarizing their expected testimony and identifying all
documents upon which they intend to rely.

5 ANSWER: Possible witnesses have been previously identified.
6 Others will be listed as defendant conducts discovery.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By


10 P. O. Box 2529
11 Billings, Montana 59103
Attorneys for Defendant

12 STATE OF MONTANA)
13) ss
14 County of Yellowstone)

15 JACK RAMIREZ, being first duly sworn, deposes and says:

16 That he is one of the attorneys retained by the defen-
17 dant for the defense of the above mentioned action; that he has
18 made the answers to the plaintiff's interrogatories by reason of
19 the fact that he has personal knowledge of some of the answers to
20 the interrogatories and has gathered the information for the
21 remaining answers from divers persons in the defendant corpora-
22 tion; that he believes that the answers to the interrogatories are
23 based upon the best information available, and therefore alleges
24 that the answers to the interrogatories are true to the best of
25 his knowledge, information and belief.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Jack Ramirez
Jack Ramirez

Subscribed and sworn to before me this 5th day of
September, 1986.

Don Metier

Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires March 5, 1987

(Seal)

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 9th
day of Sept, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

Jack Ramirez
Box 2529 - Billings, Montana 59107

P 423 791 636

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

Chief, Drinking Water Branch
(See Reverse)

Sent to U.S. Environmental

Protection Agency (8 WM-DW)

Street and No.
1860 Lincoln St

P.O., State and ZIP Code
Denver CO 80295

Postage \$

Certified Fee .75

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing
to whom and Date Delivered .60

Return Receipt Showing to whom,
Date, and Address of Delivery

TOTAL Postage and Fees \$

Postmark or Date

8/1/84

PS Form 3811, July 1982

• SENDER: Complete items 1, 2, 3, and 4.
Add your address in the "TURN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES) .15

1. The following service is requested (check one).

☐ Show to whom and date delivered60 \$
☐ Show to whom, date, and address of delivery

2. ☐ RESTRICTED DELIVERY
(The restricted delivery fee is charged in addition to the return receipt fee.) postage 71

TOTAL \$ 20.6

3. ARTICLE ADDRESSED TO: Chief, Drinking Water Branch
U.S. Environmental Protection Agency
(8 WM-DW), 1860 Lincoln Street,
Denver CO 80295

4. TYPE OF SERVICE:

☐ REGISTERED ☐ INSURED
☒ CERTIFIED ☐ COD
☐ EXPRESS MAIL

ARTICLE NUMBER

P 423791636

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY *Mary Anne White*

POSTMARK
(may be on reverse side)

6. ADDRESSEE'S ADDRESS (only if different)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S
INITIALS

RETURN RECEIPT

* GPO: 1982-379-693

PS Form 3800, Feb. 1982



Grace Petroleum Corporation
Subsidiary of W. R. Grace & Co.

Suite 760
143 Union Blvd.
Lakewood, Colorado 80228
Phone (303) 980-9130

August 1, 1984

Chief, Drinking Water Branch
U. S. Environmental Protection Agency (8 WM-DW)
1860 Lincoln Street
Denver, Colorado 80295

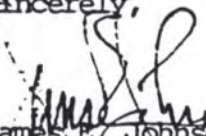
Re: ~~EPA-110-20~~
Goings Government
Buck Elk #2
Huber #1
Huber #2
Roosevelt County, Montana

Gentlemen:

Enclosed please find the requested EPA Form #4 for the above-captioned wells. The Huber #1 and #2 are producing wells which are incorrectly on your list.

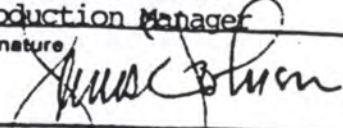
If you need any further assistance, please contact the undersigned.

Sincerely,


James E. Johnson
Production Manager

Enclosures

Televised Bob Coffin 8/20/84

Form		4		UIC		UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDERGROUND INJECTION CONTROL PERMIT APPLICATION <small>(Collected under the authority of the Safe Drinking Water Act, Sections 1421, 1422, 40 CFR 144)</small>												Form Approved OMB No. 2040-0042. Expires 9-30-86			
I. EPA ID NUMBER						T/A		C													
READ ATTACHED INSTRUCTIONS BEFORE STARTING FOR OFFICIAL USE ONLY																					
Application approved mo day year			Date Received mo day year			Permit/Well Number						Comments									
II. FACILITY NAME AND ADDRESS						III. OWNER/OPERATOR AND ADDRESS															
Facility Name EPU 110-XD						Owner/Operator Name Grace Petroleum Corporation															
Street Address East Poplar Field						Street Address 143 Union Blvd. - Ste 760															
City Poplar				State MT		ZIP Code				City Lakewood				State CO		ZIP Code 80228					
IV. OWNERSHIP STATUS (Mark 'x')						V. SIC CODES															
<input type="checkbox"/> A. Federal <input checked="" type="checkbox"/> B. State <input type="checkbox"/> C. Private																					
<input type="checkbox"/> D. Public <input type="checkbox"/> E. Other (Explain)																					
VI. WELL STATUS (Mark 'x')																					
<input checked="" type="checkbox"/> A. Operating		Date Started mo day year 10 73		<input type="checkbox"/> B. Modification/Conversion						<input type="checkbox"/> C. Proposed											
VII. TYPE OF PERMIT REQUESTED (Mark 'x' and specify if required)																					
<input checked="" type="checkbox"/> A. Individual		<input type="checkbox"/> B. Area		Number of Existing wells 1		Number of Proposed wells 0		Name(s) of field(s) or project(s) East Poplar													
VIII. CLASS AND TYPE OF WELL (see reverse)																					
A. Class(es) (enter code(s)) 11		B. Type(s) (enter code(s)) D		C. If class is "other" or type is code 'x,' explain						D. Number of wells per type (if area permit)											
IX. LOCATION OF WELL(S) OR APPROXIMATE CENTER OF FIELD OR PROJECT						X. INDIAN LANDS (Mark 'x')															
A. Latitude		B. Longitude		Township and Range																	
C. Deg Min Sec		Deg Min Sec		Twsp Range		Sec 1/4 Sec		Feet from		Line		Feet from		Line		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No					
1				28N 51E 10		SE		1525		S		660		E							
XI. ATTACHMENTS																					
(Complete the following questions on a separate sheet(s) and number accordingly; see instructions) FOR CLASSES I, II, III (and other classes) complete and submit on separate sheet(s) Attachments A — U (pp 2-6) as appropriate. Attach maps where required. List attachments by letter which are applicable and are included with your application:																					
XII. CERTIFICATION																					
I certify under the penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. (Ref. 40 CFR 144.32)																					
A. Name and Title (Type or Print) James E. Johnson Production Manager												B. Phone No. (Area Code and No.) 303-980-9130									
C. Signature 												D. Date Signed									

Grace Petroleum Corporation

EPU 110-XD
East Poplar Field
Roosevelt County, Montana

A. Fixed radius of 1/4 mile from wellbore.

E. None

G. Injection zone: Lower Mission Canyon
a) Top @ 5800', bottom @ 6502', thickness = 702.
b) Lithologic description: ls.
c) Fracture pressure: 4121 psi (.67 psi/ft).

Confining zones: Top - Ratcliffe zone, top @ 5777'
a) Lithologic description: ls.
Bottom - Lodgepole, top @ 6502'
a) Lithologic description: ls.

Note - ground level @ 2094'

H. 1) Avg daily inj rate = 1827 BWPD.
Max daily inj rate = 3000 BWPD.
2) Avg inj press = 430 psi.
Max inj press = 4000 psi.
3) Nature of annulus fluid: inhibited saltwater.
4) Source: Produced water from oil wells.
Water analysis: See attached water analyses.

Q. 1) Plugs: Spot 1 cmt plug from 6460'-6262'.
2) Use 24 sx Class 'G'.
3) Spot cmt plug, roll the hole w/lease water.
4) Spot 140 sx Class 'G' down 1 inch between 10-3/4"-5-1/2" annulus from 400' to surface.
5) Spot 12 sx Class 'G' (100') surface plug.
6) Weld on plate 3' below plow depth. Clean-up location.

R. Surety Bond No. 574E0693

S. N/A

T. None

U. Our nature of business is the exploration for and development of hydrocarbons.

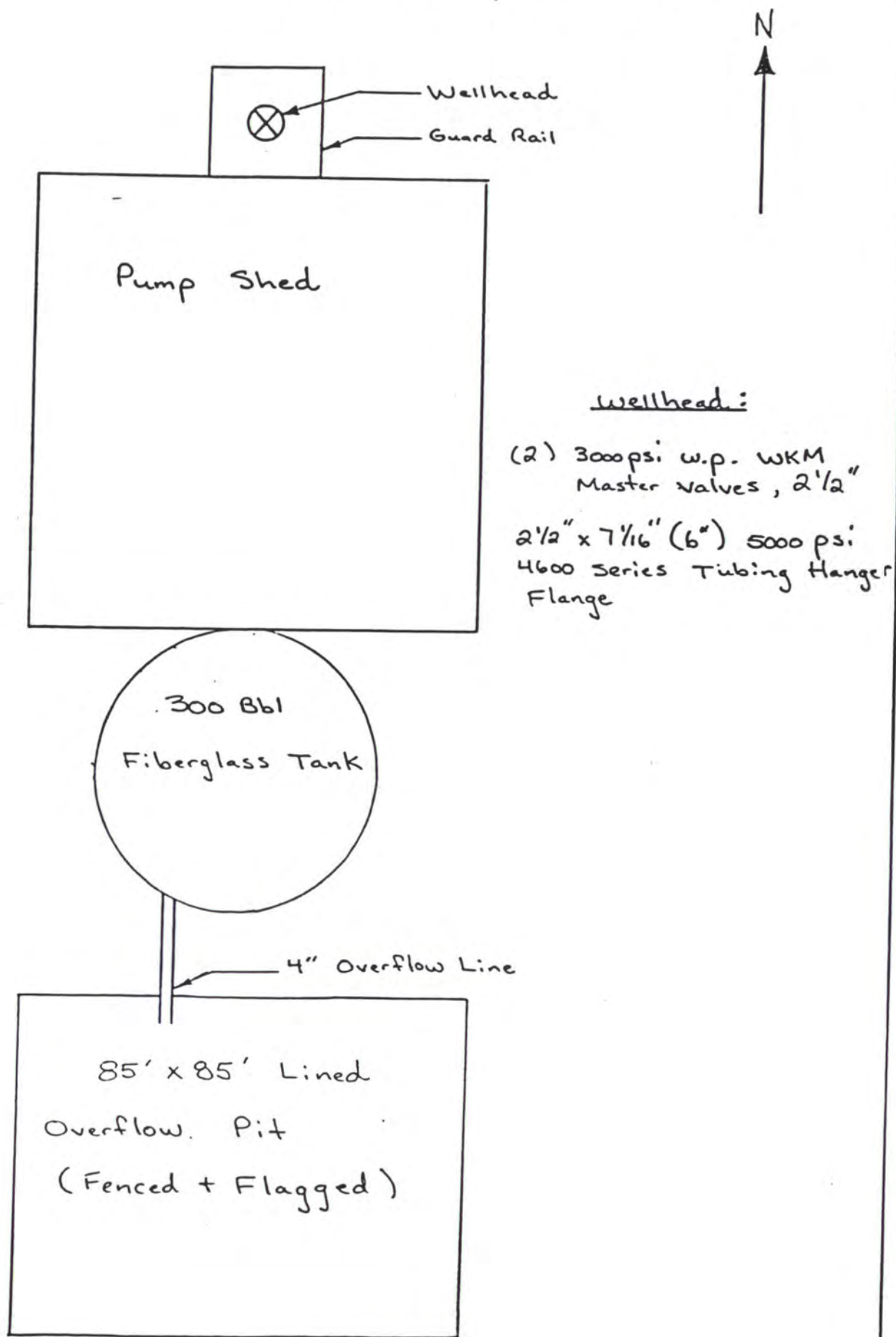
WATER ANALYSIS RESULTS

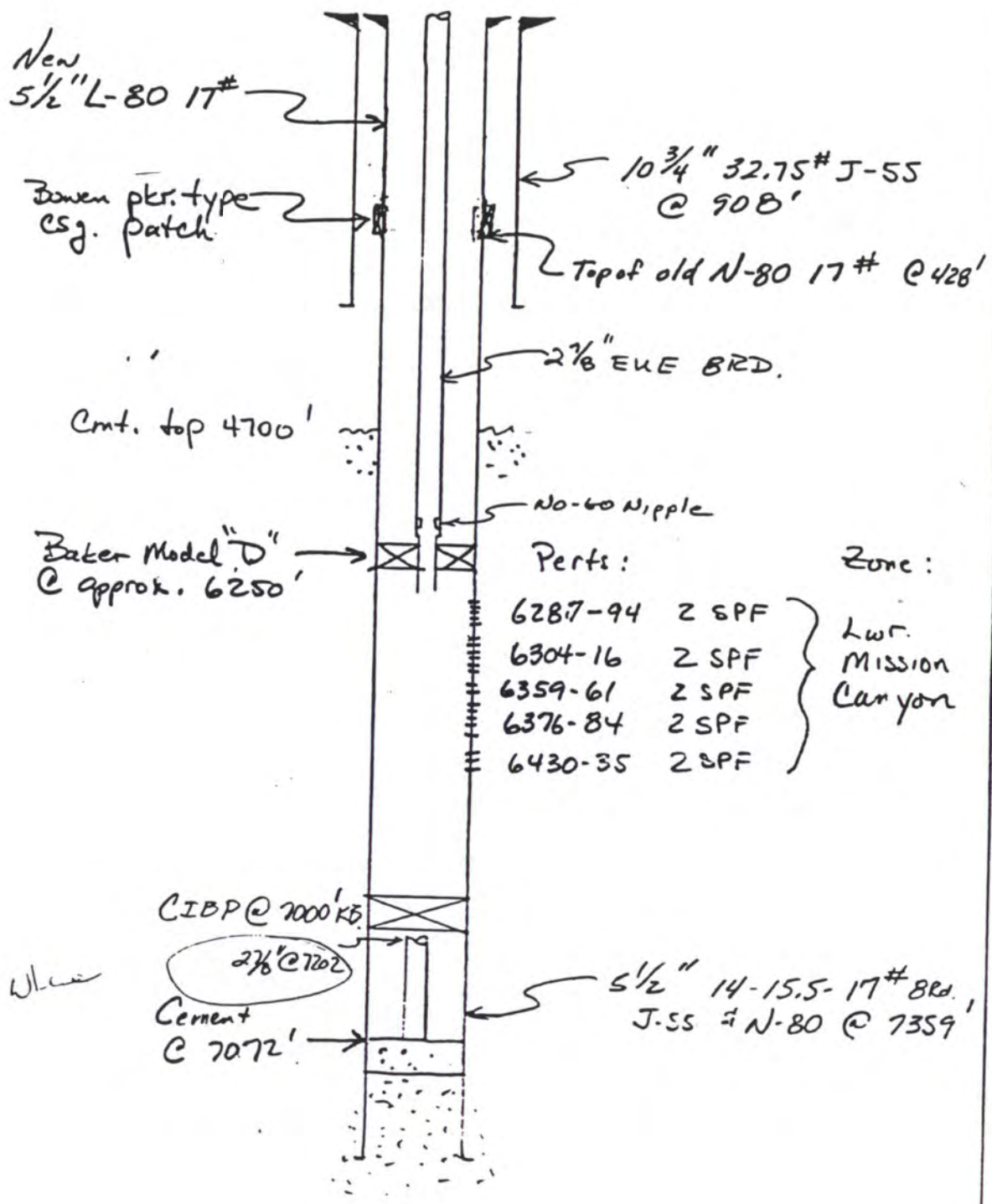
[illegible]

Results expressed in mg/liter - "ND" means not determined.

EPU 110XD
 T28N-R51E Sec 10
 Roosevelt County, Montana

7-30-84





NOT TO SCALE

DOCUMENTS ATTACHED TO MR. DONOHUE'S
COPY ONLY.

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.)	
	)	<u>DEFENDANT'S ANSWERS TO</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>PLAINTIFF'S FIRST REQUEST FOR</u>
	)	<u>PRODUCTION OF DOCUMENTS</u>
16 Defendant.)	

17
18 Comes now the defendant and answers plaintiff's First
19 Request for Production of Documents as follows:

20 The defendant objects to the instructions which attempt
21 to impose requirements beyond those of the Federal Rules of Civil
22 Procedure.

23 1. All documents containing any information requested
in or contained in your answers to interrogatories in this case.

24 ANSWER: Documents provided here are identified as Document #1,
25 referenced to Interrogatory No. 2 and No. 3.

1 2. All documents produced in any other litigation or
2 proceeding concerning the events described in the complaint.

3 ANSWER: None.

4 3. All documents regarding the events described in the
5 complaint.

6 ANSWER: Documents provided here are identified as Document #3-1
7 through #3-40 referenced to Interrogatory No. 8(a), (d) and No.
8 16(a) through (g).

9 4. All documents relating to volume of salt water
10 injected at those wells described in your answer to interrogatory
11 10, for each day of the period July 31, 1984 to September 28,
12 1984.

13 ANSWER: Documents provided here are identified as Document #4,
14 referenced to Interrogatories No. 10, 11 and 12, and Document
15 #3-18.

16 5. All documents relating to any mechanical integrity
17 tests performed on the wells described in your answer to Interrog-
18 atory 10.

19 ANSWER: Documents will be provided.

20 6. All documents regarding contacts with EPA concerning
21 the events described in the complaint.

22 ANSWER: Documents provided here are identified as Document #3-1
23 through #3-40, and Document #7, referenced to Interrogatory No.
24 17. In addition, see the records produced in the deposition of
25 Judy Graham of Mountain Bell.

 7. All documents regarding telephone calls to EPA from
Grace's Lakewood, Colorado office, including but not limited to
long distance telephone bills, from June 25, 1984, to the present.

ANSWER: Documents regarding telephone calls are identified as
Document #7, referenced to Interrogatory No. 8(a) and No. 17. In
addition, see the records produced in the deposition of Judy
Graham of Mountain Bell.

 8. All documents regarding the volume of salt water
produced at Grace's production wells in the Poplar Field area
between July 30, 1984 and September 28, 1984.

1 ANSWER: Documents produced here are identified as document #8,
2 and are also same for request for production No. 10.

3 9. All documents regarding the volume of salt water
4 produced at Grace's production wells in the Poplar Field area
5 between October 1984 and May 1985.

6 ANSWER: Documents produced here are identified as Document #9 and
7 are also same for request #11.

8 10. All documents regarding the amount of oil produced at
9 Grace's production wells in the Poplar Field area between July 30,
10 1984 and September 28, 1984.

11 ANSWER: Documents regarding the amount of oil produced in Poplar
12 Field between July 30, 1984 and September 28, 1984 are identified
13 as Document #8.

14 11. All documents regarding the amount of oil produced
15 at Grace's production wells in the Poplar Field area between
16 October 1984 and May 1985.

17 ANSWER: Documents regarding the amount of oil produced in Poplar
18 Field between October 1984 and May 1985 are identified as Document
19 #9.

20 12. All documents regarding the cost of hauling the
21 water described in requests 8 and 9, if such water was hauled.

22 ANSWER: Documents regarding the cost of hauling water described
23 in answer to Interrogatories 21(a) through (e) are identified as
24 Document #12.

25 13. All documents regarding the cost of injecting the
water described in requests 8 and 9, if such water was injected.

ANSWER: Documents regarding the cost of injecting water described
in answer to Interrogatories 21(a) through (e) and identified as
Document #12.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By Jack Ramsey
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 9th
day of Sept, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

by Jack Ramsey
P.O. Box 2529 - Billings, Montana 59103

Memorandum

Donohue, B



9/26/86

Subject	Date
UNITED STATES v. Grace Petroleum Corp. Ref: DTB:BGD:bab 90-5-1-1-2383	9/29/86 CV 86-3-GF CI 85-0429

To	From
BRIAN G. DONOHUE, Attorney Environmental Enforcement Sec. Land & Natural Resources Div.	GEORGE F. DARRAGH, Jr. Assistant U. S. Attorney 212 Federal Building P. O. Box 3446 Great Falls, MT 59403

Enclosed are copies of defendant's Motion for Extension of Time to Respond to Discovery, along with Affidavit, received on today's date.

Enc.

d1m

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

9

90-5-1-2383	
44	DEPARTMENT OF JUSTICE
	OCT 9 1986
	LANDS
	RECORD

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P. O. Box 2529
5 Billings, MT 59103
6 406-252-3441



7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF MONTANA
9 GREAT FALLS DIVISION

10
11 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
12 Plaintiff,)
13 vs.)
14 GRACE PETROLEUM CORPORATION) MOTION FOR EXTENSION
15 Defendant.) OF TIME TO RESPOND
) TO DISCOVERY

16 COMES NOW the defendant, Grace Petroleum Corporation, and
17 timely moves this Court for its order granting an extension of
18 time in which to respond, object and/or answer to a second request
19 for production of documents, a second set of interrogatories and
20 a first request for admissions, each of which were on August 27,
21 1986 served by plaintiff, U.S.A. Defendant requests an extension
22 of 30 days, to and including October 27, 1986, in which to serve
23 its responses, objections and/or answers on the United States.

24 The Court may be further advised that undersigned counsel
25 has attempted to contact the lead trial attorney for the United

1 States, Mr. Brian Donohue, regarding this motion to extend time.
2 Though the undersigned has been unable to reach Mr. Donohue,
3 further attempts to do so will be made next week and the Court
4 promptly advised of his position regarding this motion

5 A proposed Order is attached hereto.

6 DATED this 26th day of September, 1986.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By: James P. Sites
10 James P. Sites
11 P. O. Box 2529
12 Billings, Montana 59103

13 Attorneys for Defendant

14
15
16
17
18 **CERTIFICATE OF SERVICE**
19 This is to certify that the foregoing was duly
20 served by mail upon parties or attorneys of re-
21 cord at their address or addresses this 26th
22 day of September, 1986
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P. O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE DISTRICT OF MONTANA
10
11 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) AFFIDAVIT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)
21
22 STATE OF MONTANA)
23) ss.
24 County of Yellowstone)

25 JAMES P. SITES, of lawful age, being first duly sworn upon
oath, deposes and says:

1. That this is a civil action commenced by the United
States of America for its Environmental Protection Agency.

2. That the firm of Crowley, Haughey, Hanson, Toole &
Dietrich represents the defendant, Grace Petroleum Corporation,
in this civil action. As a lawyer employed in the firm, James P.
Sites is assisting in the defense of this action.

3. On August 27, 1986, plaintiff, U.S.A., served its second
set of interrogatories, a second request for production, and a

first request for admissions.

4. Responses, objections and/or answers to the same, under the Rules of Civil Procedure, would normally be due today, if the above-referenced documents were not served by mail.

5. Defendant, Grace Petroleum Corporation, requires an expansion in the deadline for serving its responses, objections and/or answers to the above-described and pending governmental discovery of 30 days, to and including October 27, 1986, because of the voluminous nature of the discovery demands and the unexpected press of other matters at the office.

6. The Court may be advised other discovery in the case has proceeded and settlement negotiations have taken place.

7. The Court may be further advised that undersigned counsel has attempted to contact the lead trial attorney for the United States, Mr. Brian Donohue, regarding this motion to extend time. Though the undersigned has been unable to reach Mr. Donohue, further attempts to do so will be made next week and the Court promptly advised of his position regarding this motion.

IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

James P. Sites

Subscribed and sworn to before me this 26th day of September,
1986.

Jean N. Schmitt
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires: 10-7-87

(SEAL)

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail upon parties in conformity of record at their address or addresses this 26th day of September 1986

Crowley, Hargher, Hanson,
Tobias & ...
By Jane P. S.

Memorandum



Subject

UNITED STATES v. Grace Petroleum Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

9/29/86
CV 86-3-GF
CI 85-0429

To

From

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of defendant's Motion for Extension of Time to Respond to Discovery, along with Affidavit, received on today's date.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

SEP 20 1933
U.S. ATTORNEY
CENTRAL U.S. DISTRICT

11 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
12)
13 Plaintiff,)
14)
15 vs.)
GRACE PETROLEUM CORPORATION)
Defendant.)
MOTION FOR EXTENSION
OF TIME TO RESPOND
TO DISCOVERY

24 The Court may be further advised that undersigned counsel
25 has attempted to contact the lead trial attorney for the United

1 States, Mr. Brian Donohue, regarding this motion to extend time.
2 Though the undersigned has been unable to reach Mr. Donohue,
3 further attempts to do so will be made next week and the Court
4 promptly advised of his position regarding this motion

5 A proposed Order is attached hereto.

6 DATED this 26th day of September, 1986.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By: James P. Sites
10 James P. Sites
11 P. O. Box 2529
12 Billings, Montana 59103

13 Attorneys for Defendant

14
15
16
17
18 **CERTIFICATE OF SERVICE**
19 This is to certify that the foregoing was duly
20 served by mail upon parties or attorneys of re-
21 cord at their address or addresses this 26th
22 day of September, 1986
23 Crowley, Haughey, Hanson,
24 Toole & Dietrich
25 By: James P. Sites
P.O. Box 2529 - Billings, Montana 59103

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole, & Dietrich
4 P. O. Box 2529
5 Billings, MT 59103
6 406-252-3441

7 IN THE UNITED STATES DISTRICT COURT
8
9 FOR THE DISTRICT OF MONTANA
10
11 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) AFFIDAVIT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 STATE OF MONTANA)
22) ss.
23 County of Yellowstone)

24 JAMES P. SITES, of lawful age, being first duly sworn upon
25 oath, deposes and says:

1. That this is a civil action commenced by the United States of America for its Environmental Protection Agency.

2. That the firm of Crowley, Haughey, Hanson, Toole & Dietrich represents the defendant, Grace Petroleum Corporation, in this civil action. As a lawyer employed in the firm, James P. Sites is assisting in the defense of this action.

3. On August 27, 1986, plaintiff, U.S.A., served its second set of interrogatories, a second request for production, and a

1 first request for admissions.

2 4. Responses, objections and/or answers to the same, under
3 the Rules of Civil Procedure, would normally be due today, if the
4 above-referenced documents were not served by mail.

5 5. Defendant, Grace Petroleum Corporation, requires an
6 expansion in the deadline for serving its responses, objections
7 and/or answers to the above-described and pending governmental
8 discovery of 30 days, to and including October 27, 1986, because
9 of the voluminous nature of the discovery demands and the unexpected
10 press of other matters at the office.

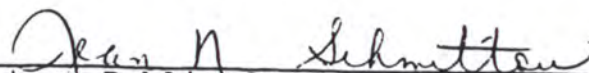
11 6. The Court may be advised other discovery in the case has
12 proceeded and settlement negotiations have taken place.

13 7. The Court may be further advised that undersigned counsel
14 has attempted to contact the lead trial attorney for the United
15 States, Mr. Brian Donohue, regarding this motion to extend time.
16 Though the undersigned has been unable to reach Mr. Donohue, further
17 attempts to do so will be made next week and the Court promptly
18 advised of his position regarding this motion.

19 IN WITNESS WHEREOF, Affiant has hereunto subscribed his name.

20
21 
James P. Sites

22 Subscribed and sworn to before me this 26th day of September,
23 1986.

24 
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires: 10-7-87

25 (SEAL)

CERTIFICATE OF SERVICE
This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 26th
day of September 1986

Crowley, H. Hughson, Hanson,

To: 

Memorandum

Do Ohue, E



Subject

UNITED STATES v. Grace Petroleum Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

9/17/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 50403

Enclosed are copies of page 5 of defendant's answers to plaintiff's First Set of Interrogatories, received on today's date.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

90-5-1-1-2383

44	DEPARTMENT OF JUSTICE	R E C O R D
	OCT 1 1986	
	LANDS	

1 responsibility was placed in the hands of Jack Nance upon his
2 appointment as Denver District Operations Manager on April 1,
3 1985. On June 15, 1986 responsibility shifted again to Kenneth H.
Dowell who currently is serving as Denver District Operations
Manager.

4 (c) The defendant objects to this interrogatory on the
5 grounds that the question is so broad, ambiguous and vague that
6 the defendant cannot frame a meaningful response. The question
7 also assumes there were underground sources of drinking water as
8 defined in 49 C.F.R. 144.3 in the vicinity of the injection wells
9 and that such sources were affected. Without waiving its objec-
10 tions, the defendant states that the individuals referred to above
11 would have knowledge regarding the disposal of salt water.
12 Further answering, see answers to Interrogatories 6, 7, 8(a),
8(b), and 8(d).

13 (d) The individuals named in 8(a), (b) and (c) would
14 have knowledge. Dane Anderson, a consultant serving the Denver
15 office from January to July, 1985, might have some knowledge. The
16 function Dane Anderson performed in connection with obtaining
17 permits for the wells in question is not known.

18 9. Identify any and all injection wells operated by
19 Grace in the Poplar Field area, on or after June 25, 1984.

20 ANSWER: Goings Government #1 SWD
21 EPU 110-XD
22 *Buck Elk #2

23 *Inactive, having received no water since 1982.

24 10. Identify those injection wells in your answer to
25 interrogatory 9 which continued in operation after July 31, 1984,
and when operation of these wells ceased, if at all.

ANSWER: Goings Government #1 SWD
EPU 110-XD

Notice of cessation at 8:00 A.M. on September 28, 1984
was submitted to the EPA by Mr. Johnson. See Document No. 4,
reference to Interrogatory No. 10.

11. For those wells in your answer to interrogatory 10,
state for each the volume of salt water injected for each day of
the period, July 31, 1984 to September 28, 1984.

Memorandum



Subject

UNITED STATES v. Grace Petroleum Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

9/17/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 50403

Enclosed are copies of page 5 of defendant's answers to plaintiff's First Set of Interrogatories, received on today's date.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

1 responsibility was placed in the hands of Jack Nance upon his
2 appointment as Denver District Operations Manager on April 1,
3 1985. On June 15, 1986 responsibility shifted again to Kenneth H.
Dowell who currently is serving as Denver District Operations
Manager.

4 (c) The defendant objects to this interrogatory on the
5 grounds that the question is so broad, ambiguous and vague that
6 the defendant cannot frame a meaningful response. The question
7 also assumes there were underground sources of drinking water as
8 defined in 49 C.F.R. 144.3 in the vicinity of the injection wells
9 and that such sources were affected. Without waiving its objec-
10 tions, the defendant states that the individuals referred to above
11 would have knowledge regarding the disposal of salt water.
12 Further answering, see answers to Interrogatories 6, 7, 8(a),
8(b), and 8(d).

13 (d) The individuals named in 8(a), (b) and (c) would
14 have knowledge. Dane Anderson, a consultant serving the Denver
15 office from January to July, 1985, might have some knowledge. The
16 function Dane Anderson performed in connection with obtaining
17 permits for the wells in question is not known.

18 9. Identify any and all injection wells operated by
19 Grace in the Poplar Field area, on or after June 25, 1984.

20 ANSWER: Goings Government #1 SWD
21 EPU 110-XD
22 *Buck Elk #2

23 *Inactive, having received no water since 1982.

24 10. Identify those injection wells in your answer to
25 interrogatory 9 which continued in operation after July 31, 1984,
and when operation of these wells ceased, if at all.

26 ANSWER: Goings Government #1 SWD
27 EPU 110-XD

28 Notice of cessation at 8:00 A.M. on September 28, 1984
29 was submitted to the EPA by Mr. Johnson. See Document No. 4,
30 reference to Interrogatory No. 10.

31 11. For those wells in your answer to interrogatory 10,
32 state for each the volume of salt water injected for each day of
33 the period, July 31, 1984 to September 28, 1984.

Donohue

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. BITES
L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P. O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

OF COUNSEL
CALE CROWLEY
JAMES M. HAUGHEY

LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER MANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LAMON, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HASEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MICHAEL B. EVANS
MARY S. YERGER
JON T. DYRE
DENNIS NETTISIMMONS
MICHAEL C. WALLER
SHARON NOVAK
ERIC K. ANDERSON

Seotember 16, 1986

Mr. Brian G. Donohue
Attorney
Environmental Enforcement Section
Land & Natural Resources Division
United States Department of Justice
Washington, D.C. 20530

Re: United States vs. Grace Petroleum

Dear Brian:

I am enclosing a copy of page 5 which was inadvertently omitted from Defendant's Answers to Plaintiff's First Set of Interrogatories.

I apologize for any inconvenience this may have caused.

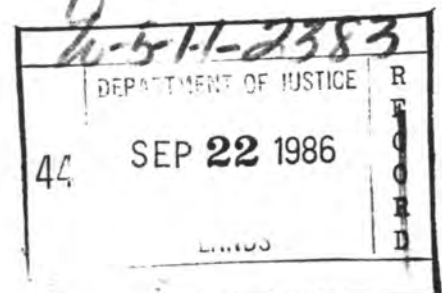
Very truly yours,

Jack
Jack Ramirez

lm

Enc.

cc: F. Henry Habicht II (w/enc)
Bryan H. Dunbar (w/enc)



1 responsibility was placed in the hands of Jack Nance upon his
2 appointment as Denver District Operations Manager on April 1,
3 1985. On June 15, 1986 responsibility shifted again to Kenneth H.
Dowell who currently is serving as Denver District Operations
Manager.

4 (c) The defendant objects to this interrogatory on the
5 grounds that the question is so broad, ambiguous and vague that
6 the defendant cannot frame a meaningful response. The question
7 also assumes there were underground sources of drinking water as
8 defined in 49 C.F.R. 144.3 in the vicinity of the injection wells
9 and that such sources were affected. Without waiving its objec-
10 tions, the defendant states that the individuals referred to above
11 would have knowledge regarding the disposal of salt water.
12 Further answering, see answers to Interrogatories 6, 7, 8(a),
13 8(b), and 8(d).

14 (d) The individuals named in 8(a), (b) and (c) would
15 have knowledge. Dane Anderson, a consultant serving the Denver
16 office from January to July, 1985, might have some knowledge. The
17 function Dane Anderson performed in connection with obtaining
18 permits for the wells in question is not known.

19 9. Identify any and all injection wells operated by
20 Grace in the Poplar Field area, on or after June 25, 1984.

21 ANSWER: Goings Government #1 SWD
22 EPU 110-XD
23 *Buck Elk #2

24 *Inactive, having received no water since 1982.

25 10. Identify those injection wells in your answer to
interrogatory 9 which continued in operation after July 31, 1984,
and when operation of these wells ceased, if at all.

ANSWER: Goings Government #1 SWD
EPU 110-XD

Notice of cessation at 8:00 A.M. on September 28, 1984
was submitted to the EPA by Mr. Johnson. See Document No. 4,
reference to Interrogatory No. 10.

11. For those wells in your answer to interrogatory 10,
state for each the volume of salt water injected for each day of
the period, July 31, 1984 to September 28, 1984.

Jack Ramirez
Crowley, Haughey, Hanson,
Toole & Dietrich
P. O. Box 2529
Billings, Montana 59103
406-252-3441
Attorneys for Defendant

9/5/86

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
Plaintiff,)
vs.)
GRACE PETROLEUM CORPORATION,) DEFENDANT'S ANSWERS TO
Defendant.) PLAINTIFF'S FIRST REQUEST FOR
) PRODUCTION OF DOCUMENTS

Comes now the defendant and answers plaintiff's First
Request for Production of Documents as follows:

The defendant objects to the instructions which attempt
to impose requirements beyond those of the Federal Rules of Civil
Procedure.

1. All documents containing any information requested
in or contained in your answers to interrogatories in this case.

ANSWER: Documents provided here are identified as Document #1,
referenced to Interrogatory No. 2 and No. 3.

2-5-1-1-2383
DEPARTMENT OF JUSTICE
SEP 15 1986
LANDS DIVISION
POLLUTION/ENFORCEMENT

1 2. All documents produced in any other litigation or
2 proceeding concerning the events described in the complaint.

3 ANSWER: None.

4 3. All documents regarding the events described in the
5 complaint.

6 ANSWER: Documents provided here are identified as Document #3-1
7 through #3-40 referenced to Interrogatory No. 8(a), (d) and No.
8 16(a) through (g).

9 4. All documents relating to volume of salt water
10 injected at those wells described in your answer to interrogatory
11 10, for each day of the period July 31, 1984 to September 28,
12 1984.

13 ANSWER: Documents provided here are identified as Document #4,
14 referenced to Interrogatories No. 10, 11 and 12, and Document
15 #3-18.

16 5. All documents relating to any mechanical integrity
17 tests performed on the wells described in your answer to Interrog-
18 atory 10.

19 ANSWER: Documents will be provided.

20 6. All documents regarding contacts with EPA concerning
21 the events described in the complaint.

22 ANSWER: Documents provided here are identified as Document #3-1
23 through #3-40, and Document #7, referenced to Interrogatory No.
24 17. In addition, see the records produced in the deposition of
25 Judy Graham of Mountain Bell.

 7. All documents regarding telephone calls to EPA from
Grace's Lakewood, Colorado office, including but not limited to
long distance telephone bills, from June 25, 1984, to the present.

ANSWER: Documents regarding telephone calls are identified as
Document #7, referenced to Interrogatory No. 8(a) and No. 17. In
addition, see the records produced in the deposition of Judy
Graham of Mountain Bell.

 8. All documents regarding the volume of salt water
produced at Grace's production wells in the Poplar Field area
between July 30, 1984 and September 28, 1984.

1 ANSWER: Documents produced here are identified as document #8,
2 and are also same for request for production No. 10.

3 9. All documents regarding the volume of salt water
4 produced at Grace's production wells in the Poplar Field area
5 between October 1984 and May 1985.

6 ANSWER: Documents produced here are identified as Document #9 and
7 are also same for request #11.

8 10. All documents regarding the amount of oil produced at
9 Grace's production wells in the Poplar Field area between July 30,
10 1984 and September 28, 1984.

11 ANSWER: Documents regarding the amount of oil produced in Poplar
12 Field between July 30, 1984 and September 28, 1984 are identified
13 as Document #8.

14 11. All documents regarding the amount of oil produced
15 at Grace's production wells in the Poplar Field area between
16 October 1984 and May 1985.

17 ANSWER: Documents regarding the amount of oil produced in Poplar
18 Field between October 1984 and May 1985 are identified as Document
19 #9.

20 12. All documents regarding the cost of hauling the
21 water described in requests 8 and 9, if such water was hauled.

22 ANSWER: Documents regarding the cost of hauling water described
23 in answer to Interrogatories 21(a) through (e) are identified as
24 Document #12.

25 13. All documents regarding the cost of injecting the
water described in requests 8 and 9, if such water was injected.

ANSWER: Documents regarding the cost of injecting water described
in answer to Interrogatories 21(a) through (e) and identified as
Document #12.

CROWLEY, HAUGHEY, HANSON,
TOOLE & DIETRICH

By Jack Ramsey
P. O. Box 2529
Billings, Montana 59103
Attorneys for Defendant

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 9th
day of Sept, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

by Jack Ramsey
P.O. Box 2529 - Billings, Montana 59103

DOCUMENTS ATTACHED TO MR. DONOHUE'S
COPY ONLY.

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>DEFENDANT'S ANSWERS TO</u>
	)	<u>PLAINTIFF'S FIRST SET OF</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>INTERROGATORIES</u>
)	
16 Defendant.)	

17 Defendant answers plaintiff's First Set of Interrogato-
18 ries as follows:
19

20 The defendant objects to Instructions 1 through 15 on
21 the grounds that they attempt to impose burdens on the defendant
beyond the requirements of the Federal Rules of Civil Procedure.

22 1. State the location and full address of Grace's
23 headquarters.

24 ANSWER: Grace Petroleum Corporation
25 6501 North Broadway
Oklahoma City, Oklahoma 73116

1 2. Identify each of the members of the Board of Direc-
2 tors of Grace since January 1984, and the period of service for
 each of the members.

3 ANSWER: The identity of the members of the Board of Directors of
4 Grace Petroleum Corporation is presented in attached document
 #I-1.

5 3. Identify each of the officers of Grace since
6 January, 1984, and state the period of service for each of the
 officers in each position during that time.

7 ANSWER: The identity of the officers of Grace Petroleum Corpora-
8 tion is presented in attached document #I-1.

9 4. Identify the person or persons primarily responsible
10 within Grace for pollution control activities and compliance with
 environmental regulations from January 1984 to present.

11 ANSWER: The defendant objects to this interrogatory on the
12 grounds that it is excessively broad, burdensome and oppressive.
13 The interrogatory seeks, without limitation, persons primarily
14 responsible for any pollution control activities, of any kind, and
15 compliance with any environmental regulations, state or federal,
16 of any kind, without regard to the Poplar Field in question. To
17 respond, therefore, the defendant would have to list numerous
18 managers who deal with field which are irrelevant to the present
 case. Without waiving its objection, the defendant states that
 managers at the district level in the Grace organizational struc-
 ture are primarily responsible for pollution control. For the
 relevant names, see the answer to Interrogatory No. 6, below. The
 managers are assisted in compliance with environmental regulations
 by the Corporate Manager of Security and Regulatory Affairs, who
 was for the period in question Bob J. Coffia.

19 5. Identify the person or persons primarily responsible
 for fiscal matters within Grace from January 1984 to present.

20 ANSWER: Gene C. Victory, Senior Vice president and Chief Finan-
21 cial Officer.

22 6. Identify the person or persons at Grace primarily
23 responsible for pollution control and compliance with environmen-
 tal regulations at the Poplar Field, Roosevelt County, Montana,
 site from January 1984 to present.

24 ANSWER: Persons primarily responsible within Grace for pollution
25 control at Poplar Field were, and are, as follows:

1	1-01-84 to 2-01-84	Richard A. Higgins, Retired
2		1363 Park Place
3		Broomfield, Colorado
		Denver District Production
		Manager
4	2-01-84 to 2-05-85	James E. Johnson. Last
5		information is that he is cur-
6		rently in Pakistan, employed
7		by Union of Texas, Houston,
		Texas
		Denver District Production
		Manager
8	2-05-85 to 4-01-85	Kenneth H. Dowell
9		Grace Petroleum
10		6501 West Broadway
		Oklahoma City, Oklahoma 73116
		Production Manager
11	4-01-85 to 6-15-86	Jack Nance
12		1511 Ridgecrest
13		Odessa, Texas 79763
		Denver District Operations
		Manager
14	6-15-86 to Present	Kenneth H. Dowell
15		Denver District Operations
		Manager
16	1-01-84 to Present	*Bob J. Coffia,
17		Grace Petroleum
18		Corporate Manager of Security
		and Regulatory Affairs
19		*Coordinator of compliance with
		environmental requirements.

20 7. Identify the district manager at Grace responsible
 21 for operations at the Poplar Field site from January 1984 to
 22 present.

23 ANSWER: District Managers at Grace responsible for operations at
 24 Poplar Field site from January 1984 to present are as follows:

24	2-01-84 to 2-05-85	James E. Johnson
	2-05-85 to 4-01-85	Kenneth H. Dowell
	4-01-85 to 6-15-86	Jack Nance
25	6-15-86 to Present	Kenneth H. Dowell

1 8. Identify all persons who have worked or do work for
2 Grace or have been consultants or work for consultants hired by
3 Grace who have information regarding any of the following sub-
4 jects:

5 (a) any communications with EPA in 1984 requesting that
6 the Company apply for permits for its injection wells located in
7 the Poplar Field and any subsequent requests to cease injection
8 activities at this site;

9 (b) Grace's decision-making, during the period January
10 1984 to present, regarding permits for underground injection
11 activities;

12 (c) the effect of salt water disposed of by injection
13 wells at the Poplar Field site on underground sources of drinking
14 water as defined in 40 C.F.R. 144.3;

15 (d) Grace's progress in obtaining permits for injection
16 wells operating in the Poplar Field or otherwise bringing them
17 into compliance with EPA's UIC regulations.

18 ANSWER: (a) The best information available is that, until
19 August 20, 1984, no one except James E. Johnson, Denver District
20 Production Manager, and his immediate staff, Operations Engineer
21 Don Smith (now with Premier Resources, Suite 2100, 6000 17th
22 Street, Denver, Colorado 80202), and summer employee Matt Strever,
23 knew of EPA's request of June 25 to submit applications for
24 permits to operate the wells in question. It was not until August
25 20 that EPA's order of August 16 was made known to B. J. Coffia,
Grace Corporate Environmental Manager-Coordinator in Oklahoma
City. It is believed that at the same time, Don Sterns (last
known address, Edmond, Oklahoma), Vice President and General
Manager of the Western Region of Grace, was informed of the
matter.

 (b) Organizationally, Mr. Johnson reported to Mr.
Sterne in connection with decision making. With the exception of
utilization of B. J. Coffia, Environmental Manager-Coordinator, to
assist on a limited basis in the preparation of responses to
correct deficiencies outlined in EPA's Notice of August 20, 1984,
no other persons are known to have been involved in decision-
making until February 1985. Reorganization of Grace Petroleum
Corporation in March 1985 through transition period commencing in
January, the departure of Don Stern at that time, followed by the
resignation of James E. Johnson effective March 15, 1985, shifted
responsibility for decision-making to Jack Hill, newly appointed
Vice President and Manager of Operations and his immediate subor-
dinate, Production Manager, Kenneth H. Dowell. Primary

1 ANSWER: BLM Form #9-329, MONTHLY REPORT OF OPERATIONS, and
2 Montana form #5, REPORT OF SUBSURFACE INJECTIONS indicate the
following:

	<u>GOINGS</u> <u>GOV'T</u> <u>#SWD</u>	<u>EPU</u> <u>LL0-XD</u>
3		
4	August 49,406 Barrels	51,870 Barrels
5	September 46,381 Barrels	53,790 Barrels

6 210,447 Barrels Divided by 61 days = 3302.4 Barrels/Day

7 12. For each well identified in your answer to interrog-
8 atory 10, state the total volume of salt water injected for each
day of the period July 31, 1984, to September 28, 1984.

9 ANSWER: 3302.4 barrels per day times 59 days (July 31 through
September 27, 1984) = 194,841.6 barrels.

10 13. Identify other alternative(s) considered by Grace
11 for disposing of the salt water which you disposed of by means of
the injection wells listed in your answer to interrogatory 10 for
12 the period July 31, 1984 to September 28, 1984, and provide an
estimate of the cost of each alternative.

13 ANSWER: The alternative of hauling water to off-site disposal was
14 discussed with Mr. Johnson on August 20, 1984. It is not known to
what extent Mr. Johnson considered off-site disposal. The remain-
15 ing alternative was to shut the field in and bear the loss of
produced oil. It is likewise not known to what extent Mr. Johnson
16 considered this alterantive. At the time, the defendant was in
touch with the EPA regarding the injection wells, and the defen-
17 dant felt it was working toward a satisfactory resolution of the
problem. It is known that on October 2, 1984, Mr. Johnson dic-
18 tated a memorandum in which he made estimates of these alterna-
tives, apparently in regard to the applications for emergency
19 permits. Economic studies now indicate that off-site disposal of
water amounted to \$1.20 per barrel. Without consideration of
20 curtailment of production during August and September, the dis-
posal of approximately 195,000 barrels of water at \$1.20 per
21 barrel would have been in excess of \$230,000. Economic studies on
field shut-in also now indicate that expenses to maintain shut-in
22 conditions would have been exceeded \$33,000. Added to the loss of
9,000+ barrels of oil production, the total loss would have been
23 \$285,000.

24 14. State if there were any mechanical integrity tests
performed on the wells listed in your answer to interrogatory 10.
25 If the answer is yes, state:

- 1 (a) whether there are reports for any of these wells;
2 (b) the results of all integrity tests conducted on
3 said wells since June 1984.

4 ANSWER: (a) Mechanical integrity tests, as defined in the
5 interrogatories, were run on all wells on October 12, 1984. The
6 wells did not withstand the test. Mechanical integrity tests, as
7 defined, were not required prior to that time. Other tests were
8 run on May 21 and 22, 1985 on Goings Gov't.

9 (b) In the EPU 110-XD, efforts were commenced on
10 10-15-84 to correct downhole problems in order to establish
11 mechanical integrity. A second mechanical integrity test was
12 conducted on February 16, 1985 without success. On April 30, 1985
13 a plan was recommenced to rehabilitate the well. Tests indicated
14 casing leaks from 5540' up to 1130'. On May 9, 1985 a decision
15 was made to plug and abandon. On May 20, 1985, a P&A report was
16 submitted to EPA and Montana Oil and Gas Conservation Commission.

17 On February 7, 1985, the defendant commenced an effort
18 to repair the Goings Gov't #1. The defendant ran a tracer pro-
19 file. Injection was confined to Dakota zone. The casing was
20 pressure tested and held at 160 psi. From March 4, 1985, through
21 March 7, 1985, a test of 4½" casing from surface to 3586' was
22 conducted. Several leaks were found between 1271' to 3371'. A
23 Cement Bond Log disclosed the top of cement at 2950'. On April
24 16, 1986, the EPA approved the defendant's plan to cement a 2-7/8"
25 tubing string inside the 4½" casing from 3590' to the surface. A
pressure test on May 21, 1985, was successful. On May 23, 1985,
the defendant recommenced injection operations with EPA approval.

15. For those persons identified in your answer to
interrogatory 8, state the following:

- 18 (a) the length of employment with Grace;
19 (b) each person's position with Grace;
20 (c) each person's professional background; and
21 (d) each person's specific duties.

22 ANSWER:

23 DON STERNE

- 24 (a) Employed 9-01-73. Terminated 1-15-85.

1 (b) Vice President and General Manger of Western Region
2 during period in question.

3 (c) Registered Professional Petroleum Engineer.

4 (d) Primary responsibility for oil and gas production,
5 and drilling operations in Colorado, Montana, Wyoming,
6 North and South Dakota, Nebraska, Utah, Northern New
7 Mexico, West Texas and California.

8 JAMES E. JOHNSON

9 (a) Employed 5-01-79. Resigned effective 3-15-85.

10 (b) Denver District Operations Manager.

11 (c) Professional Petroleum Engineer.

12 (d) Primary responsibility for oil and gas production
13 and drilling operations in Colorado, Montana, Wyoming,
14 North and South Dakota, Utah and Northern New Mexico.

15 DON SMITH

16 (a) Employed 7-24-80. Terminated 11-30-84.

17 (b) Operations Engineer.

18 (c) Professional petroleum Engineer.

19 (d) Responsible for care and upkeep of assigned wells
20 in district. Maintain liaison between Management and
21 Field Operations in terms of Daily production, wells in
22 need of repair, etc. Reviews and approves all invoices
23 from service contractors, designs methods for efficiency
24 in connection with oil and gas production.

25 MATT STREVER

(a) Summertime employee, 1984.

(b) Engineering Technical Assistant in Grace Denver
Office.

(c) Petroleum Engineering student.

(d) Assisted generally with technical matters encoun-
tered in Denver office, including assisting in the

1 preparation of permit applications on the Goings Govern-
2 ment #1, SWD, the EPU 110-XD and the Buck Elk #2.

3 KENNETH E. DOWELL

4 (a) Commenced employment on 7-21-77 (currently em-
5 ployed).

6 (b) Production Manager until 6-15-86.

7 (c) Professional Petroleum Engineer.

8 (d) Primarily responsible, on regional basis, for
9 production operations in several districts assigned to
10 position. Following reorganization in January 1985, and
11 resignation of James E. Johnson, assumed duties as
12 interim Denver District Operations Manager. Relin-
13 quished duties on 4-01-85 and re-assumed duties on
14 6-15-86.

15 JACK D. HILL

16 (a) Employed by Grace of 3-27-78. (Current employed)

17 (b) Vice president and Manager of Operations as of 1-01-85.

18 (c) Registered Professional Petroleum Engineer.

19 (d) Responsible for the direction of all operational
20 matters. Reports to Executive Vice President and
21 President of company on operational matters.

22 BOB J. COFFIA

23 (a) Employed by Grace on 11-15-78. (Currently em-
24 ployed)

25 (b) Holds title of Manager of Security and Regulatory
Affairs (included in which is coordinator of Environ-
mental matters).

(c) Professional Law Enforcement (retired).

(d) Primary responsibility for security of equipment,
supplies, materials, and products produced by company.
Additionally, responsible for the safety and health of
employees while monitoring federal, state and local
environmental requirements and coordinating with opera-
tions managers in order to advance compliance.

1 JACK NANCE

2 (a) Employed 3-15-74. Terminated 6-15-86.

3 (b) District Operations Manager.

4 (d) Performed Engineering and Management duties without
5 benefit of engineering degree. Primarily responsible
6 for all aspects of operations within the district to
which assigned. Assignment in Denver District same as
that described for James E. Johnson.

7 16. In regard to Paragraph 15 of the complaint, concern-
8 ing notification by EPA to Grace requesting applications for UIC
permits, indicate :

9 (a) if such notice(s) was(were) received by Grace;

10 (b) at which Grace office such notice(s) was(were)
11 received;

12 (c) the date of receipt of such notice(s) by Grace;

13 (d) whether such notice(s) contained application(s) for
UIC permits;

14 (e) when Grace began to complete said application(s);

15 (f) when each such application was completed by Grace;

16 (g) when and how such applications were returned to EPA
17 from Grace.

18 ANSWER:

(a) Letter was received by Grace.

19 (b) Letter was received by Grace Denver District office
only.

20 (c) Letter logged in at Denver office on June 27, 1984.

21 (d) It is assumed, but not known, that application
22 forms accompanied the letter.

23 (e) Statements given by Matt Strever indicate that he
24 was assigned by Mr. Johnson to commence the task on or
25 about July 15, 1984.

1 (f) According to Matt Strever, gathering and prepara-
2 tion of the required data was completed on August 1,
1984.

3 (g) Each application was, in package form, addressed to
4 Chief, Drinking Water Branch, U. S. Environmental
5 Protection Agency (8 WM-DW), 1860 Lincoln Street,
6 Denver, Colorado 80295, and placed in the registered
7 mail (#P423 791 636) August 1, 1984. (Copies are
8 attached).

9 17. State whether there are any documents regarding
10 communications between Matt Strever and EPA regarding the Grace
11 injection wells in the Poplar Field, and include a description of
12 the nature of such documents.

13 ANSWER: Matt Strever has told defendant and has testified that he
14 kept a log of contacts with the EPA. Matt Strever also prepared a
15 memorandum of his contacts with the EPA. A copy of his memorandum
16 has been furnished with his affidavit. The defendant has searched
17 for but has not been able to locate Mr. Strever's logs.

18 18. Describe the operation of Grace's Lakewood, Colorado
19 office since January, 1984, and identify each person who was
20 employed at that location by Grace during that period.

21 ANSWER: Grace's Lakewood, Colorado office was established in
22 early June, 1984, following a move from 3 Park Central, 1515
23 Arapahoe, downtown Denver. From approximately 1973 until March 1,
24 1984, the district office was headed by now retired R. A. Higgins.
25 Responsibility for operations in the district was assumed by James
E. "Jim" Johnson on appointment by then Vice President and General
Manager of Grace Region, Donald L. Sterne.

Mr. Johnson supervised a staff of one operations engi-
neer, Don Smith, and two clerical assistants, Marge Criss and Mary
Schafer. The staff was increased by one on April 1, 1984, by the
movement of M. T. "Tim" Jordan from California to serve as Field
Superintendent in a district encompassing the states of Colorado,
Wyoming, Montana, North and South Dakota, Nebraska, Utah, and
Northern New Mexico. Engineering student Matt Strever was hired
to work part-time while school was in session and to work full-
time during the summer months.

Within this widely separated area, Mr. Johnson and his
staff were charged with the operation and maintenance of 148
active wells, in addition to monitoring 853 wells operated by
other companies in which Grace had an interest.

1 Production Engineer, Don Smith, was terminated on
2 November 30, 1984. Following Mr. Johnson's resignation, effective
3 March 15, 1985, Kenneth H. Dowell, a professional petroleum
4 engineer with many years experience, assumed the managerial duties
5 associated with the Denver District. On March 15, 1985, opera-
6 tions Engineer Bill Baswell was assigned to the office. On June
15, 1986, responsibility shifted to Kenneth H. Dowell. See answer
to Interrogatory No. 8(b). Mr. Dowell guided the district until
April 1, 1985, when Jack Nance was moved laterally from an Oklaho-
ma district to the Denver district.

19. State whether Grace maintains copies of telephone
bills from the period January 1, 1984 to present, which delineate
long distance telephone calls, including but not limited to, bills
delineating telephone calls to any EPA office from Grace's
Lakewood, Colorado office.

ANSWER: Mountain Bell Telephone Company provides the telephone
service to the Denver district office. The service in use in 1984
included a local general service line and a WATS system, both
incoming and outgoing. Upon receipt of monthly bills from Moun-
tain Bell, only long distance calls made on the local general
service lines are delineated. The telephone company does not
routinely provide its customers with a printout of WATS usage
except hours of actual use, number of messages, hours and minutes
per message, chargeable hours, average lines in service, and
average use per line. Efforts, however, have successfully been
made to obtain these records. The defendant understands that
records cannot be obtained regarding local calls made to the
Denver EPA office; long-distance calls made between the Denver
and the Helena, Montana, EPA offices; or long-distance calls made
from the Helena, Montana, EPA office to defendant's office in
Lakewood, Colorado.

20. Indicate which long distance telephone carrier
Grace's Lakewood office utilized during the period January 1, 1984
to present and supply all account numbers, telephone numbers, or
other identification in this regard.

ANSWER: Mountain Bell Telephone bills indicate that the long
distance carrier was AT&T during the period in question. Tele-
phone and account numbers are contained in the records obtained
from Mountain Bell in the deposition of Judy N. Graham.

21. State the volume of salt water produced at the
production wells, which were served by the injection wells de-
scribed in your answer to Interrogatory 10, during the period
October 1984 to May 1985. If such water was not injected, indi-
cate:

- 1 (a) whether the salt water was hauled and injected
elsewhere;
- 2 (b) who hauled and/or injected said water;
- 3 (c) the cost of such hauling;
- 4 (d) the cost of such injection;
- 5 (e) whether there were any contracts, documents, or
6 other writings relating to your responses to (a) through
7 (d) above.

8 ANSWER: During the months of October, 1984 through May, 1985,
116,440 barrels of water were produced in connection with oil
9 production at Grace Poplar Field. The remaining answers are as
follows:

- 10 (a) The water was hauled and injected elsewhere.
- 11 (b) The water was hauled by Strauser Oil Well Operating
12 Service, Poplar, Montana.
- 13 (c) The cost of hauling was calculated at \$0.699 per
barrel.
- 14 (d) The cost of injection, or disposal, was \$0.50 per
15 barrel.
- 16 (e) Grace is in the possession of all invoices from
Strauser and Century Oil and Gas Corporation reflecting
17 hauling and disposal charges.

18 22. Describe all contacts between Grace and EPA between
June 25, 1984 and the date suit was filed therein, which relate to
19 the allegations contained in the complaint.

20 ANSWER: The defendant objects to this interrogatory on the
grounds that is overly broad, burdensome and oppressive. The
21 interrogatory is also too vague to permit a meaningful response in
that it refers to "contacts" and all the "allegations contained in
22 the complaint. This information is best obtained by depositions
of the employees of the defendant and the EPA.

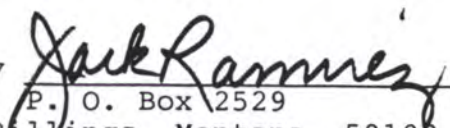
23 23. Identify all experts expected to testify at trials,
stating the subject matter on which the expert is expected to
24 testify, and the substance of the facts and opinions to which the
expert is expected to testify with a summary of the grounds for
25 each opinion.

1 ANSWER: No expert witnesses have been identified yet.

2 24. Identify all witnesses other than those identified
3 in your answer to Interrogatory 21 who are expected to testify at
4 trial, summarizing their expected testimony and identifying all
documents upon which they intend to rely.

5 ANSWER: Possible witnesses have been previously identified.
6 Others will be listed as defendant conducts discovery.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By 
10 P. O. Box 2529
11 Billings, Montana 59103
Attorneys for Defendant

12 STATE OF MONTANA)
13) ss
14 County of Yellowstone)

15 JACK RAMIREZ, being first duly sworn, deposes and says:

16 That he is one of the attorneys retained by the defen-
17 dant for the defense of the above mentioned action; that he has
18 made the answers to the plaintiff's interrogatories by reason of
19 the fact that he has personal knowledge of some of the answers to
20 the interrogatories and has gathered the information for the
21 remaining answers from divers persons in the defendant corpora-
22 tion; that he believes that the answers to the interrogatories are
23 based upon the best information available, and therefore alleges
24 that the answers to the interrogatories are true to the best of
25 his knowledge, information and belief.

1 Jack Ramirez
2 Jack Ramirez

3 Subscribed and sworn to before me this 5th day of
4 September, 1986.

5 Don Metier

6 Notary Public for the State of Montana
7 Residing at Billings, Montana
8 My Commission expires March 5, 1987

9 (Seal)

10
11 CERTIFICATE OF SERVICE

12 This is to certify that the foregoing was duly
13 served by mail upon parties or attorneys of re-
14 cord at their address or addresses this 9th
15 day of Sept, 1986

16 Crowley, Haughey, Hanson,
17 Toole & Dietrich

18 Jack Ramirez
19 O. Box 2529 - Billings, Montana 59106

P. 423 791 636
RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED—
NOT FOR INTERNATIONAL MAIL

Chief, Drinking Wtr Branch
(See Reverse)

Sent to U.S. Environmental
Protection Agency (8 WM-DW)

Street and No.
1860 Lincoln St

P.O., State and ZIP Code
Denver CO 80295

Postage \$

Certified Fee .75

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing
to whom and Date Delivered .60

Return Receipt Showing to whom,
Date, and Address of Delivery

TOTAL Postage and Fees \$

Postmark or Date

8/1/84

PS Form 3811, July 1982

● SENDER: Complete Items 1, 2, 3, &
Add your address in the "JRN TO" space on reverse.

(CONSULT POSTMASTER FOR FEES) .15

1. The following service is requested (check one).

☐ Show to whom and date delivered60

☐ Show to whom, date, and address of delivery ..

2. RESTRICTED DELIVERY71

(The restricted delivery fee is charged in addition to the return receipt fee.) postage

TOTAL \$ 20.6

3. ARTICLE ADDRESSED TO: Chief, Drinking Wtr Brnc
U.S. Environmental Protection Agency
(8 WM-DW), 1860 Lincoln Street,
Denver CO 80295

4. TYPE OF SERVICE: ARTICLE NUMBER

☐ REGISTERED ☐ INSURED

☒ CERTIFIED ☐ COD P 423791636

☐ EXPRESS MAIL

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

5. DATE OF DELIVERY Mary Jane White

POSTMARK
(may be on reverse side)

6. ADDRESSEE'S ADDRESS (only if requested)

7. UNABLE TO DELIVER BECAUSE:

7a. EMPLOYEE'S
INITIALS

RETURN RECEIPT



* GPO: 1982-379-593

PS Form 3800, Feb. 1982



Grace Petroleum Corporation
Subsidiary of W. R. Grace & Co.

Suite 760
143 Union Blvd.
Lakewood, Colorado 80228
Phone (303) 980-9130

August 1, 1984

Chief, Drinking Water Branch
U. S. Environmental Protection Agency (8 WM-DW)
1860 Lincoln Street
Denver, Colorado 80295

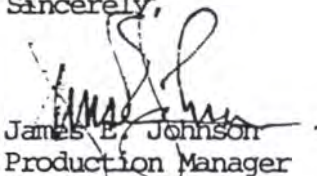
Re: ~~EPU-110-XD~~
Goings Government
Buck Elk #2
Huber #1
Huber #2
Roosevelt County, Montana

Gentlemen:

Enclosed please find the requested EPA Form #4 for the above-captioned wells. The Huber #1 and #2 are producing wells which are incorrectly on your list.

If you need any further assistance, please contact the undersigned.

Sincerely,


James E. Johnson
Production Manager

Enclosures

Telecopied Bob Coffin 8/20/84

Form

4

UIC



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
**UNDERGROUND INJECTION CONTROL
 PERMIT APPLICATION**

(Collected under the authority of the Safe Drinking
 Water Act, Sections 1421, 1422, 40 CFR 144)

I. EPA ID NUMBER

T/A C

U

READ ATTACHED INSTRUCTIONS BEFORE STARTING
 FOR OFFICIAL USE ONLY

Application approved mo day year	Date Received mo day year	Permit/Well Number	Comments

II. FACILITY NAME AND ADDRESS

Facility Name

EPU 110-XD

Street Address

East Poplar Field

City

Poplar

State

MT

ZIP Code

III. OWNER/OPERATOR AND ADDRESS

Owner/Operator Name

Grace Petroleum Corporation

Street Address

143 Union Blvd. - Ste 760

City

Lakewood

State

CO

ZIP Code

80228

IV. OWNERSHIP STATUS (Mark 'x')

☐ A. Federal ☒ B. State ☐ C. Private

☐ D. Public ☐ E. Other (Explain)

V. SIC CODES

VI. WELL STATUS (Mark 'x')

☒ A.

Operating

Date Started

mo

day

year

10

73

☐ B. Modification/Conversion ☐ C. Proposed

VII. TYPE OF PERMIT REQUESTED (Mark 'x' and specify if required)

☒ A. Individual ☐ B. Area
Number of Exist-
ing wells

1

Number of Pro-
posed wells

0

Name(s) of field(s) or project(s)

East Poplar

VIII. CLASS AND TYPE OF WELL (see reverse)

A. Class(es)
(enter code(s))

11

B. Type(s)
(enter code(s))

D

C. If class is "other" or type is code "x," explain

D. Number of wells per type (if area permit)

IX. LOCATION OF WELL(S) OR APPROXIMATE CENTER OF FIELD OR PROJECT

A. Latitude

B. Longitude

Township and Range

X. INDIAN LANDS (Mark 'x')

☐ Yes ☒ No

Deg

Min

Sec

Deg

Min

Sec

Twp

Range

Sec

1/4 Sec

Feet from

Line

Feet from

Line

E

28N

51E

10

SE

1525

S

660

XI. ATTACHMENTS

(Complete the following questions on a separate sheet(s) and number accordingly; see instructions)

FOR CLASSES I, II, III (and other classes) complete and submit on separate sheet(s) Attachments A — U (pp 2-6) as appropriate. Attach maps where required. List attachments by letter which are applicable and are included with your application:

XII. CERTIFICATION

I certify under the penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. (Ref. 40 CFR 144.32)

A. Name and Title (Type or Print)

James E. Johnson

Production Manager

B. Phone No. (Area Code and No.)

303-980-9130

C. Signature

D. Date Signed

Grace Petroleum Corporation

EPU 110-XD
East Poplar Field
Roosevelt County, Montana

A. Fixed radius of 1/4 mile from wellbore.

E. None

G. Injection zone: Lower Mission Canyon
a) Top @ 5800', bottom @ 6502', thickness = 702.
b) Lithologic description: ls.
c) Fracture pressure: 4121 psi (.67 psi/ft).

Confining zones: Top - Ratcliffe zone, top @ 5777'
a) Lithologic description: ls.
Bottom - Lodgepole, top @ 6502'
a) Lithologic description: ls.

Note - ground level @ 2094'

H. 1) Avg daily inj rate = 1827 BWPD.
Max daily inj rate = 3000 BWPD.
2) Avg inj press = 430 psi.
Max inj press = 4000 psi.
3) Nature of annulus fluid: inhibited saltwater.
4) Source: Produced water from oil wells.
Water analysis: See attached water analyses.

Q. 1) Plugs: Spot 1 cmt plug from 6460'-6262'.
2) Use 24 sx Class 'G'.
3) Spot cmt plug, roll the hole w/lease water.
4) Spot 140 sx Class 'G' down 1 inch between 10-3/4"-5-1/2" annulus from 400' to surface.
5) Spot 12 sx Class 'G' (100') surface plug.
6) Weld on plate 3' below plow depth. Clean-up location.

R. Surety Bond No. 574E0693

S. N/A

T. None

U. Our nature of business is the exploration for and development of hydrocarbons.

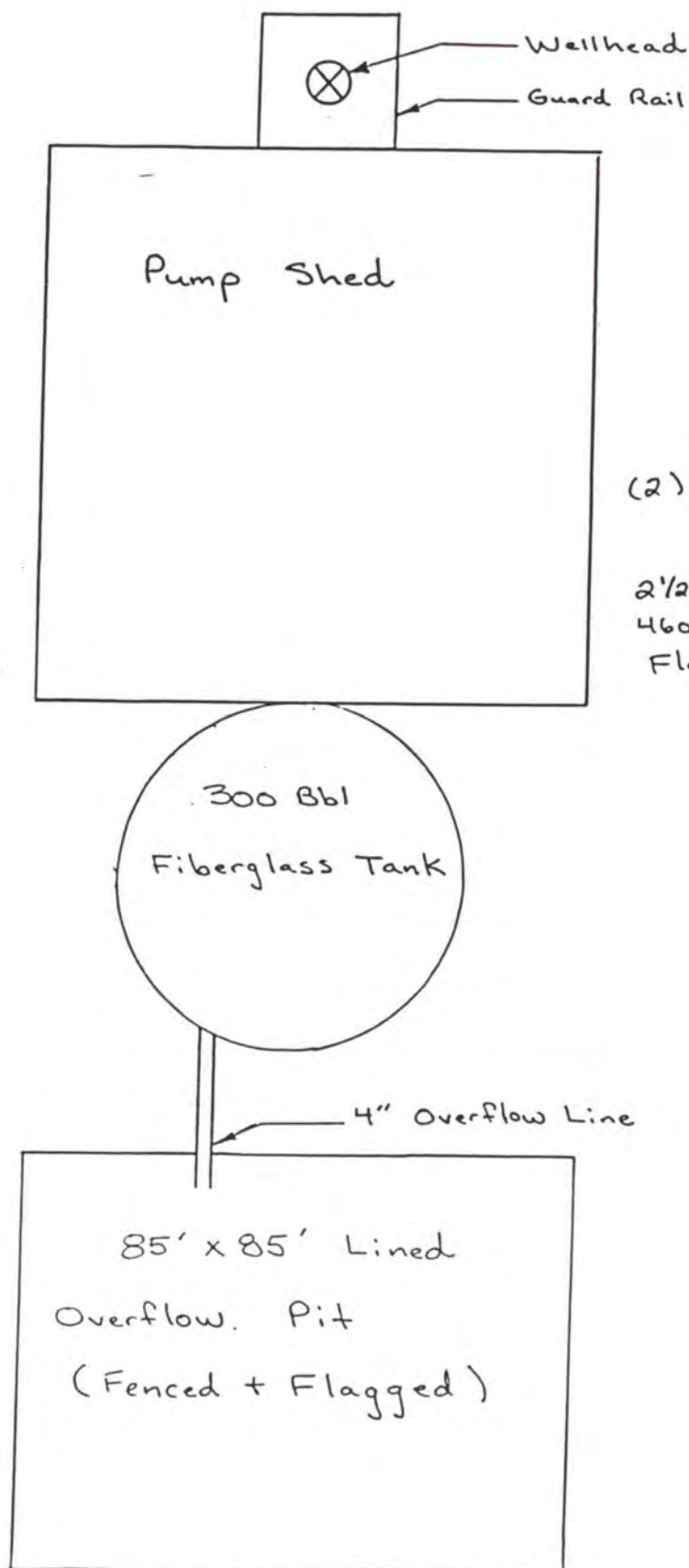
WATER ANALYSIS RESULTS

[illegible]

Results expressed in mg/liter - "ND" means not determined.

EPU 110XD
T28N-R51E Sec 10
Roosevelt County, Montana

7-30-84



wellhead:

(2) 3000psi w.p. WKM
Master Valves, 2 1/2"

2 1/2" x 7 1/16" (b") 5000 psi
4600 Series Tubing Hanger
Flange

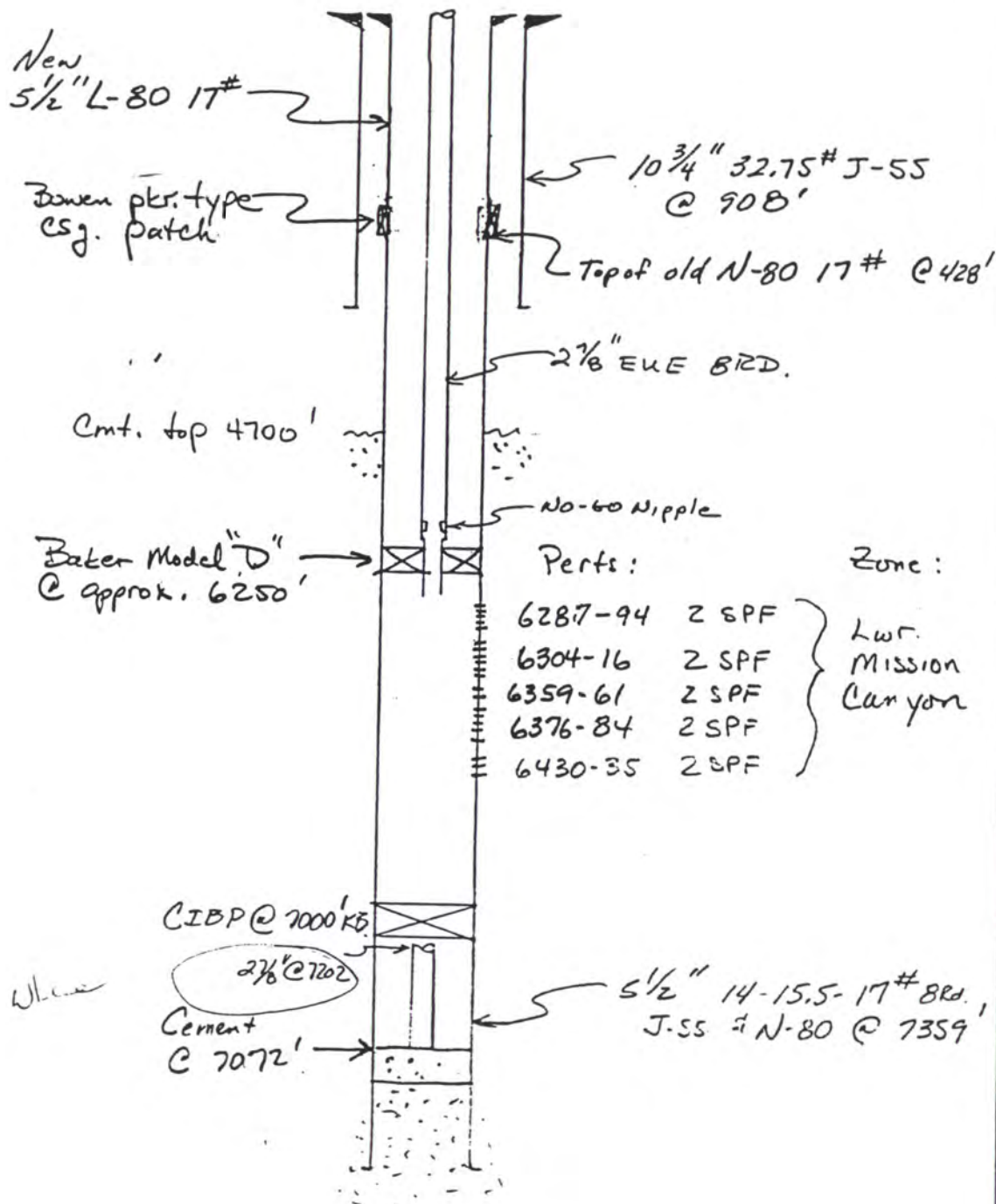
M.

J-XD

AST POPLAR FIELD

181 *W. J. Jathas*

WELLBORE SCHEMATIC EPU 110 XD

checked by MP3
7-18-84

NOT TO SCALE

42.381 30 INCHES SQUARE
42.382 100 INCHES SQUARE
42.389 300 INCHES SQUARE

NATIONAL

Donohue 3

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

NORMAN HANSON
BRUCE R. TOOLE
JOHN M. DIETRICH
LOUIS R. MOORE
GARELD F. KRIEG
ARTHUR F. LAMEY, JR.
MYLES J. THOMAS
GEORGE C. DALTHORP
DAVID L. JOHNSON
JACK RAMIREZ
KEMP WILSON
ROBERT EDD LEE
STUART W. CONNER
HERBERT I. PIERCE, III
RONALD R. LODDERS
CHARLES R. CASHMORE
STEVEN RUFFATTO
ALLAN L. KARELL
JAMES P. SITES
L. RANDALL BISHOP
CAROLYN S. OSTBY
STEVEN J. LEHMAN
T. G. SPEAR

ATTORNEYS AT LAW
500 TRANSWESTERN PLAZA II
490 NORTH 31ST STREET
P.O. BOX 2529
BILLINGS, MONTANA 59103-2529
TELEPHONE (406) 252-3441
TELECOPIER (406) 256-8526

OF COUNSEL
CALE CROWLEY
JAMES H. HAUGHEY

LAURA A. MITCHELL
SHERRY SCHEEL MATTEUCCI
CHRISTOPHER HANGEN, JR.
MICHAEL E. WEBSTER
DANIEL N. McLEAN
JOHN R. ALEXANDER
DONALD L. HARRIS
WILLIAM D. LANDIN, III
MICHAEL S. DOCKERY
WILLIAM J. MATTIX
PETER F. HASEIN
WILLIAM O. BRONSON
MALCOLM H. GOODRICH
MICHAEL B. EVANS
MARY S. YERGER
JON T. DYRE
DENNIS NETTISIMMONS
MICHAEL C. WALLER
SHARON NOVAK
ERIC K. ANDERSON

September 5, 1986

Mr. J.C. Lynch
Law Clerk
The Honorable Paul G. Hatfield
United States District Judge
District of Montana
P.O. Box 1529
Great Falls, Montana 59403

Re: U.S. v. Grace Petroleum Corp.
Civil Action No. CV-86-003-GF-PGH
(D. Mont.)

Dear Jerry:

Further to the attorneys' telephone conference call of last Wednesday, September 3, 1986, regarding the above-captioned, this will confirm that the parties are agreeable to an extension of four (4) months in all deadlines set in the Court's Scheduling Order, filed on April 23, 1986.

Unless we hear to the contrary, we will assume that our Motion for Extension of Time to Discovery Schedule, of August 29th, does not require further support.

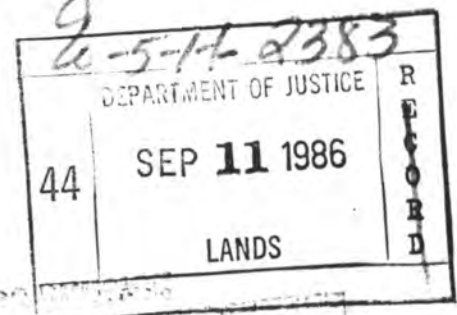
Thank you.

Sincerely yours,

Jim
JAMES P. SITES

JPS/akb

cc: Mr. Brian G. Donohue
Mr. George F. Darragh, Jr.
Clerk of Court



Conclude

9/5/86

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,
13 Plaintiff,
14 vs.
15 GRACE PETROLEUM CORPORATION,
16 Defendant.

Cause No. CV-86-003-GF-PGH

DEFENDANT'S ANSWERS TO
PLAINTIFF'S FIRST SET OF
INTERROGATORIES

17 Defendant answers plaintiff's First Set of Interrogato-
18 ries as follows:

19
20 The defendant objects to Instructions 1 through 15 on
21 the grounds that they attempt to impose burdens on the defendant
beyond the requirements of the Federal Rules of Civil Procedure.

22 1. State the location and full address of Grace's
23 headquarters.

24 ANSWER: Grace Petroleum Corporation
25 6501 North Broadway
Oklahoma City, Oklahoma 73116

9-5-11-2383

44	SEP 15 1986	RECORDED
----	-------------	----------

LANDS DIVISION
FEDERAL BUREAU OF INVESTIGATION

1 2. Identify each of the members of the Board of Direc-
2 tors of Grace since January 1984, and the period of service for
 each of the members.

3 ANSWER: The identity of the members of the Board of Directors of
4 Grace Petroleum Corporation is presented in attached document
 #I-1.

5 3. Identify each of the officers of Grace since
6 January, 1984, and state the period of service for each of the
 officers in each position during that time.

7 ANSWER: The identity of the officers of Grace Petroleum Corpora-
8 tion is presented in attached document #I-1.

9 4. Identify the person or persons primarily responsible
10 within Grace for pollution control activities and compliance with
 environmental regulations from January 1984 to present.

11 ANSWER: The defendant objects to this interrogatory on the
12 grounds that it is excessively broad, burdensome and oppressive.
13 The interrogatory seeks, without limitation, persons primarily
14 responsible for any pollution control activities, of any kind, and
15 compliance with any environmental regulations, state or federal,
16 of any kind, without regard to the Poplar Field in question. To
17 respond, therefore, the defendant would have to list numerous
18 managers who deal with field which are irrelevant to the present
 case. Without waiving its objection, the defendant states that
 managers at the district level in the Grace organizational struc-
 ture are primarily responsible for pollution control. For the
 relevant names, see the answer to Interrogatory No. 6, below. The
 managers are assisted in compliance with environmental regulations
 by the Corporate Manager of Security and Regulatory Affairs, who
 was for the period in question Bob J. Coffia.

19 5. Identify the person or persons primarily responsible
 for fiscal matters within Grace from January 1984 to present.

20 ANSWER: Gene C. Victory, Senior Vice president and Chief Finan-
21 cial Officer.

22 6. Identify the person or persons at Grace primarily
23 responsible for pollution control and compliance with environmen-
 tal regulations at the Poplar Field, Roosevelt County, Montana,
 site from January 1984 to present.

24 ANSWER: Persons primarily responsible within Grace for pollution
25 control at Poplar Field were, and are, as follows:

1	1-01-84 to 2-01-84	Richard A. Higgins, Retired 1363 Park Place
2		Broomfield, Colorado
3		Denver District Production Manager
4	2-01-84 to 2-05-85	James E. Johnson. Last information is that he is cur- rently in Pakistan, employed by Union of Texas, Houston, Texas
5		Denver District Production Manager
6		
7		
8	2-05-85 to 4-01-85	Kenneth H. Dowell Grace Petroleum 6501 West Broadway Oklahoma City, Oklahoma 73116 Production Manager
9		
10		
11	4-01-85 to 6-15-86	Jack Nance 1511 Ridgecrest Odessa, Texas 79763 Denver District Operations Manager
12		
13		
14	6-15-86 to Present	Kenneth H. Dowell Denver District Operations Manager
15		
16	1-01-84 to Present	*Bob J. Coffia, Grace Petroleum Corporate Manager of Security and Regulatory Affairs
17		
18		
19		*Coordinator of compliance with environmental requirements.

20 7. Identify the district manager at Grace responsible
21 for operations at the Poplar Field site from January 1984 to
22 present.

23 ANSWER: District Managers at Grace responsible for operations at
24 Poplar Field site from January 1984 to present are as follows:

24	2-01-84 to 2-05-85	James E. Johnson
	2-05-85 to 4-01-85	Kenneth H. Dowell
	4-01-85 to 6-15-86	Jack Nance
25	6-15-86 to Present	Kenneth H. Dowell

1 8. Identify all persons who have worked or do work for
2 Grace or have been consultants or work for consultants hired by
3 Grace who have information regarding any of the following sub-
4 jects:

5 (a) any communications with EPA in 1984 requesting that
6 the Company apply for permits for its injection wells located in
7 the Poplar Field and any subsequent requests to cease injection
8 activities at this site;

9 (b) Grace's decision-making, during the period January
10 1984 to present, regarding permits for underground injection
11 activities;

12 (c) the effect of salt water disposed of by injection
13 wells at the Poplar Field site on underground sources of drinking
14 water as defined in 40 C.F.R. 144.3;

15 (d) Grace's progress in obtaining permits for injection
16 wells operating in the Poplar Field or otherwise bringing them
17 into compliance with EPA's UIC regulations.

18 ANSWER: (a) The best information available is that, until
19 August 20, 1984, no one except James E. Johnson, Denver District
20 Production Manager, and his immediate staff, Operations Engineer
21 Don Smith (now with Premier Resources, Suite 2100, 6000 17th
22 Street, Denver, Colorado 80202), and summer employee Matt Strever,
23 knew of EPA's request of June 25 to submit applications for
24 permits to operate the wells in question. It was not until August
25 20 that EPA's order of August 16 was made known to B. J. Coffia,
Grace Corporate Environmental Manager-Coordinator in Oklahoma
City. It is believed that at the same time, Don Sterns (last
known address, Edmond, Oklahoma), Vice President and General
Manager of the Western Region of Grace, was informed of the
matter.

(b) Organizationally, Mr. Johnson reported to Mr.
Sterne in connection with decision making. With the exception of
utilization of B. J. Coffia, Environmental Manager-Coordinator, to
assist on a limited basis in the preparation of responses to
correct deficiencies outlined in EPA's Notice of August 20, 1984,
no other persons are known to have been involved in decision-
making until February 1985. Reorganization of Grace Petroleum
Corporation in March 1985 through transition period commencing in
January, the departure of Don Stern at that time, followed by the
resignation of James E. Johnson effective March 15, 1985, shifted
responsibility for decision-making to Jack Hill, newly appointed
Vice President and Manager of Operations and his immediate subor-
dinate, Production Manager, Kenneth H. Dowell. Primary

1 ANSWER: BLM Form #9-329, MONTHLY REPORT OF OPERATIONS, and
2 Montana form #5, REPORT OF SUBSURFACE INJECTIONS indicate the
following:

	<u>GOINGS GOV'T #SWD</u>	<u>EPU LL0-XD</u>
3		
4	August 49,406 Barrels	51,870 Barrels
5	September 46,381 Barrels	53,790 Barrels
6	210,447 Barrels Divided by 61 days = 3302.4 Barrels/Day	

7 12. For each well identified in your answer to interrog-
8 atory 10, state the total volume of salt water injected for each
day of the period July 31, 1984, to September 28, 1984.

9 ANSWER: 3302.4 barrels per day times 59 days (July 31 through
September 27, 1984) = 194,841.6 barrels.

10 13. Identify other alternative(s) considered by Grace
11 for disposing of the salt water which you disposed of by means of
the injection wells listed in your answer to interrogatory 10 for
12 the period July 31, 1984 to September 28, 1984, and provide an
estimate of the cost of each alternative.

13 ANSWER: The alternative of hauling water to off-site disposal was
14 discussed with Mr. Johnson on August 20, 1984. It is not known to
what extent Mr. Johnson considered off-site disposal. The remain-
15 ing alternative was to shut the field in and bear the loss of
produced oil. It is likewise not known to what extent Mr. Johnson
16 considered this alterantive. At the time, the defendant was in
touch with the EPA regarding the injection wells, and the defen-
17 dant felt it was working toward a satisfactory resolution of the
problem. It is known that on October 2, 1984, Mr. Johnson dic-
18 tated a memorandum in which he made estimates of these alterna-
tives, apparently in regard to the applications for emergency
19 permits. Economic studies now indicate that off-site disposal of
water amounted to \$1.20 per barrel. Without consideration of
20 curtailment of production during August and September, the dis-
posal of approximately 195,000 barrels of water at \$1.20 per
21 barrel would have been in excess of \$230,000. Economic studies on
field shut-in also now indicate that expenses to maintain shut-in
22 conditions would have been exceeded \$33,000. Added to the loss of
9,000+ barrels of oil production, the total loss would have been
23 \$285,000.

24 14. State if there were any mechanical integrity tests
performed on the wells listed in your answer to interrogatory 10.
25 If the answer is yes, state:

1 (a) whether there are reports for any of these wells;

2 (b) the results of all integrity tests conducted on
3 said wells since June 1984.

4 ANSWER: (a) Mechanical integrity tests, as defined in the
5 interrogatories, were run on all wells on October 12, 1984. The
6 wells did not withstand the test. Mechanical integrity tests, as
7 defined, were not required prior to that time. Other tests were
8 run on May 21 and 22, 1985 on Goings Gov't.

9 (b) In the EPU 110-XD, efforts were commenced on
10 10-15-84 to correct downhole problems in order to establish
11 mechanical integrity. A second mechanical integrity test was
12 conducted on February 16, 1985 without success. On April 30, 1985
13 a plan was recommenced to rehabilitate the well. Tests indicated
14 casing leaks from 5540' up to 1130'. On May 9, 1985 a decision
15 was made to plug and abandon. On May 20, 1985, a P&A report was
16 submitted to EPA and Montana Oil and Gas Conservation Commission.

17 On February 7, 1985, the defendant commenced an effort
18 to repair the Goings Gov't #1. The defendant ran a tracer pro-
19 file. Injection was confined to Dakota zone. The casing was
20 pressure tested and held at 160 psi. From March 4, 1985, through
21 March 7, 1985, a test of 4½" casing from surface to 3586' was
22 conducted. Several leaks were found between 1271' to 3371'. A
23 Cement Bond Log disclosed the top of cement at 2950'. On April
24 16, 1986, the EPA approved the defendant's plan to cement a 2-7/8"
25 tubing string inside the 4½" casing from 3590' to the surface. A
pressure test on May 21, 1985, was successful. On May 23, 1985,
the defendant recommenced injection operations with EPA approval.

15. For those persons identified in your answer to
interrogatory 8, state the following:

- 18 (a) the length of employment with Grace;
- 19 (b) each person's position with Grace;
- 20 (c) each person's professional background; and
- 21 (d) each person's specific duties.

22 ANSWER:

23 DON STERNE

- 24 (a) Employed 9-01-73. Terminated 1-15-85.

25

1 (b) Vice President and General Manger of Western Region
2 during period in question.

3 (c) Registered Professional Petroleum Engineer.

4 (d) Primary responsibility for oil and gas production,
5 and drilling operations in Colorado, Montana, Wyoming,
6 North and South Dakota, Nebraska, Utah, Northern New
7 Mexico, West Texas and California.

8 JAMES E. JOHNSON

9 (a) Employed 5-01-79. Resigned effective 3-15-85.

10 (b) Denver District Operations Manager.

11 (c) Professional Petroleum Engineer.

12 (d) Primary responsibility for oil and gas production
13 and drilling operations in Colorado, Montana, Wyoming,
14 North and South Dakota, Utah and Northern New Mexico.

15 DON SMITH

16 (a) Employed 7-24-80. Terminated 11-30-84.

17 (b) Operations Engineer.

18 (c) Professional petroleum Engineer.

19 (d) Responsible for care and upkeep of assigned wells
20 in district. Maintain liaison between Management and
21 Field Operations in terms of Daily production, wells in
22 need of repair, etc. Reviews and approves all invoices
23 from service contractors, designs methods for efficiency
24 in connection with oil and gas production.

25 MATT STREVER

(a) Summertime employee, 1984.

(b) Engineering Technical Assistant in Grace Denver
Office.

(c) Petroleum Engineering student.

(d) Assisted generally with technical matters encoun-
tered in Denver office, including assisting in the

1 preparation of permit applications on the Goings Govern-
2 ment #1, SWD, the EPU 110-XD and the Buck Elk #2.

3 KENNETH E. DOWELL

4 (a) Commenced employment on 7-21-77 (currently em-
5 ployed).

6 (b) Production Manager until 6-15-86.

7 (c) Professional Petroleum Engineer.

8 (d) Primarily responsible, on regional basis, for
9 production operations in several districts assigned to
10 position. Following reorganization in January 1985, and
resignation of James E. Johnson, assumed duties as
interim Denver District Operations Manager. Relin-
quished duties on 4-01-85 and re-assumed duties on
6-15-86.

11 JACK D. HILL

12 (a) Employed by Grace of 3-27-78. (Current employed)

13 (b) Vice president and Manager of Operations as of 1-01-85.

14 (c) Registered Professional Petroleum Engineer.

15 (d) Responsible for the direction of all operational
16 matters. Reports to Executive Vice President and
President of company on operational matters.

17 BOB J. COFFIA

18 (a) Employed by Grace on 11-15-78. (Currently em-
19 ployed)

20 (b) Holds title of Manager of Security and Regulatory
21 Affairs (included in which is coordinator of Environ-
mental matters).

22 (c) Professional Law Enforcement (retired).

23 (d) Primary responsibility for security of equipment,
24 supplies, materials, and products produced by company.
25 Additionally, responsible for the safety and health of
employees while monitoring federal, state and local
environmental requirements and coordinating with opera-
tions managers in order to advance compliance.

1 JACK NANCE

2 (a) Employed 3-15-74. Terminated 6-15-86.

3 (b) District Operations Manager.

4 (d) Performed Engineering and Management duties without
5 benefit of engineering degree. Primarily responsible
6 for all aspects of operations within the district to
which assigned. Assignment in Denver District same as
that described for James E. Johnson.

7 16. In regard to Paragraph 15 of the complaint, concern-
8 ing notification by EPA to Grace requesting applications for UIC
permits, indicate :

9 (a) if such notice(s) was(were) received by Grace;

10 (b) at which Grace office such notice(s) was(were)
11 received;

12 (c) the date of receipt of such notice(s) by Grace;

13 (d) whether such notice(s) contained application(s) for
UIC permits;

14 (e) when Grace began to complete said application(s);

15 (f) when each such application was completed by Grace;

16 (g) when and how such applications were returned to EPA
17 from Grace.

18 ANSWER: (a) Letter was received by Grace.

19 (b) Letter was received by Grace Denver District office
only.

20 (c) Letter logged in at Denver office on June 27, 1984.

21 (d) It is assumed, but not known, that application
22 forms accompanied the letter.

23 (e) Statements given by Matt Strever indicate that he
24 was assigned by Mr. Johnson to commence the task on or
25 about July 15, 1984.

1 (f) According to Matt Strever, gathering and prepara-
2 tion of the required data was completed on August 1,
1984.

3 (g) Each application was, in package form, addressed to
4 Chief, Drinking Water Branch, U. S. Environmental
5 Protection Agency (8 WM-DW), 1860 Lincoln Street,
6 Denver, Colorado 80295, and placed in the registered
mail (#P423 791 636) August 1, 1984. (Copies are
attached).

7 17. State whether there are any documents regarding
8 communications between Matt Strever and EPA regarding the Grace
injection wells in the Poplar Field, and include a description of
the nature of such documents.

9 ANSWER: Matt Strever has told defendant and has testified that he
10 kept a log of contacts with the EPA. Matt Strever also prepared a
11 memorandum of his contacts with the EPA. A copy of his memorandum
has been furnished with his affidavit. The defendant has searched
for but has not been able to locate Mr. Strever's logs.

12 18. Describe the operation of Grace's Lakewood, Colorado
13 office since January, 1984, and identify each person who was
employed at that location by Grace during that period.

14 ANSWER: Grace's Lakewood, Colorado office was established in
15 early June, 1984, following a move from 3 Park Central, 1515
16 Arapahoe, downtown Denver. From approximately 1973 until March 1,
1984, the district office was headed by now retired R. A. Higgins.
17 Responsibility for operations in the district was assumed by James
E. "Jim" Johnson on appointment by then Vice President and General
Manager of Grace Region, Donald L. Sterne.

18 Mr. Johnson supervised a staff of one operations engi-
19 neer, Don Smith, and two clerical assistants, Marge Criss and Mary
20 Schafer. The staff was increased by one on April 1, 1984, by the
21 movement of M. T. "Tim" Jordan from California to serve as Field
22 Superintendent in a district encompassing the states of Colorado,
Wyoming, Montana, North and South Dakota, Nebraska, Utah, and
Northern New Mexico. Engineering student Matt Strever was hired
to work part-time while school was in session and to work full-
time during the summer months.

23 Within this widely separated area, Mr. Johnson and his
24 staff were charged with the operation and maintenance of 148
25 active wells, in addition to monitoring 853 wells operated by
other companies in which Grace had an interest.

1 Production Engineer, Don Smith, was terminated on
2 November 30, 1984. Following Mr. Johnson's resignation, effective
3 March 15, 1985, Kenneth H. Dowell, a professional petroleum
4 engineer with many years experience, assumed the managerial duties
5 associated with the Denver District. On March 15, 1985, opera-
6 tions Engineer Bill Baswell was assigned to the office. On June
7 15, 1986, responsibility shifted to Kenneth H. Dowell. See answer
8 to Interrogatory No. 8(b). Mr. Dowell guided the district until
9 April 1, 1985, when Jack Nance was moved laterally from an Oklaho-
10 ma district to the Denver district.

11 19. State whether Grace maintains copies of telephone
12 bills from the period January 1, 1984 to present, which delineate
13 long distance telephone calls, including but not limited to, bills
14 delineating telephone calls to any EPA office from Grace's
15 Lakewood, Colorado office.

16 ANSWER: Mountain Bell Telephone Company provides the telephone
17 service to the Denver district office. The service in use in 1984
18 included a local general service line and a WATS system, both
19 incoming and outgoing. Upon receipt of monthly bills from Moun-
20 tain Bell, only long distance calls made on the local general
21 service lines are delineated. The telephone company does not
22 routinely provide its customers with a printout of WATS usage
23 except hours of actual use, number of messages, hours and minutes
24 per message, chargeable hours, average lines in service, and
25 average use per line. Efforts, however, have successfully been
made to obtain these records. The defendant understands that
records cannot be obtained regarding local calls made to the
Denver EPA office; long-distance calls made between the Denver
and the Helena, Montana, EPA offices; or long-distance calls made
from the Helena, Montana, EPA office to defendant's office in
Lakewood, Colorado.

18 20. Indicate which long distance telephone carrier
19 Grace's Lakewood office utilized during the period January 1, 1984
20 to present and supply all account numbers, telephone numbers, or
21 other identification in this regard.

22 ANSWER: Mountain Bell Telephone bills indicate that the long
23 distance carrier was AT&T during the period in question. Tele-
24 phone and account numbers are contained in the records obtained
25 from Mountain Bell in the deposition of Judy N. Graham.

21 21. State the volume of salt water produced at the
22 production wells, which were served by the injection wells de-
23 scribed in your answer to Interrogatory 10, during the period
24 October 1984 to May 1985. If such water was not injected, indi-
25 cate:

- 1 (a) whether the salt water was hauled and injected
2 elsewhere;
3 (b) who hauled and/or injected said water;
4 (c) the cost of such hauling;
5 (d) the cost of such injection;
6 (e) whether there were any contracts, documents, or
7 other writings relating to your responses to (a) through
8 (d) above.

9 ANSWER: During the months of October, 1984 through May, 1985,
10 116,440 barrels of water were produced in connection with oil
11 production at Grace Poplar Field. The remaining answers are as
12 follows:

- 13 (a) The water was hauled and injected elsewhere.
14 (b) The water was hauled by Strauser Oil Well Operating
15 Service, Poplar, Montana.
16 (c) The cost of hauling was calculated at \$0.699 per
17 barrel.
18 (d) The cost of injection, or disposal, was \$0.50 per
19 barrel.
20 (e) Grace is in the possession of all invoices from
21 Strauser and Century Oil and Gas Corporation reflecting
22 hauling and disposal charges.

23 22. Describe all contacts between Grace and EPA between
24 June 25, 1984 and the date suit was filed therein, which relate to
25 the allegations contained in the complaint.

ANSWER: The defendant objects to this interrogatory on the
grounds that is overly broad, burdensome and oppressive. The
interrogatory is also too vague to permit a meaningful response in
that it refers to "contacts" and all the "allegations contained in
the complaint. This information is best obtained by depositions
of the employees of the defendant and the EPA.

23 23. Identify all experts expected to testify at trials,
24 stating the subject matter on which the expert is expected to
25 testify, and the substance of the facts and opinions to which the
expert is expected to testify with a summary of the grounds for
each opinion.

1 ANSWER: No expert witnesses have been identified yet.

2 24. Identify all witnesses other than those identified
3 in your answer to Interrogatory 21 who are expected to testify at
4 trial, summarizing their expected testimony and identifying all
documents upon which they intend to rely.

5 ANSWER: Possible witnesses have been previously identified.
6 Others will be listed as defendant conducts discovery.

7 CROWLEY, HAUGHEY, HANSON,
8 TOOLE & DIETRICH

9 By Jack Ramirez
10 P. O. Box 2529
11 Billings, Montana 59103
Attorneys for Defendant

12 STATE OF MONTANA)
13) ss
14 County of Yellowstone)

15 JACK RAMIREZ, being first duly sworn, deposes and says:

16 That he is one of the attorneys retained by the defen-
17 dant for the defense of the above mentioned action; that he has
18 made the answers to the plaintiff's interrogatories by reason of
19 the fact that he has personal knowledge of some of the answers to
20 the interrogatories and has gathered the information for the
21 remaining answers from divers persons in the defendant corpora-
22 tion; that he believes that the answers to the interrogatories are
23 based upon the best information available, and therefore alleges
24 that the answers to the interrogatories are true to the best of
25 his knowledge, information and belief.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Jack Ramirez
Jack Ramirez

Subscribed and sworn to before me this 5th day of
September, 1986.

Don Metier

Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires March 5, 1987

(Seal)

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 9th
day of Sept, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

Jack Ramirez
P.O. Box 2529 - Billings, Montana 59107

Memorandum

4/27/86

Donohue 3 

Subject

UNITED STATES v. Grace Petroleum Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

9/4/86
CV 86-3-GF
CI 85-0429

To

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

From

GEORGE F. DARRAGH, Jr.
Assistant U. S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

Enclosed are copies of defendant's Motion for Extension of Time to Discovery Schedule and First Interrogatories to Plaintiff and Requests for Production of Documents, received on 9/2/86.

Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699

44-5-1-1-2383

44	DEPARTMENT OF JUSTICE	R
	SEP 15 1986	F
LANDS DIVISION POLLUTION ENFORCEMENT		

1 JACK RAMIREZ
2 CROWLEY, HAUGHEY, HANSON,
3 TOOLE & DIETRICH
4 P. O. Box 2529
5 Billings, Montana 59103-2529
6 (406) 252-3441
7 ATTORNEYS FOR DEFENDANT



8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION
11

12 UNITED STATES OF AMERICA,	)	Cause No. CV-86-003-GF-PGH
)	
13 Plaintiff,)	
)	
14 vs.	)	<u>MOTION FOR EXTENSION</u>
	)	<u>OF TIME TO DISCOVERY</u>
15 GRACE PETROLEUM CORPORATION,	)	<u>SCHEDULE</u>
)	
16 Defendant.)	

17 COMES NOW the defendant, Grace Petroleum Corporation, and
18 timely moves this Court for its order granting an enlargement
19 to all discovery deadlines, as set forth in the Court's Order of
20 April 23, 1986, for a period of time deemed by the Court to be
21 appropriate. The motion is based on good cause and for the
22 following grounds:

23 1. Today, August 29, defendant's counsel received from
24 the U.S.A. an extensive second set of discovery papers,
25 interrogatories, requests for admission and production. In order

1 to review and respond to this discovery, further time is required.
2 Unless enlarged, the deadline for written discovery expires today.

3 2. The discovery process was unforeseeably delayed by
4 difficulties encountered in securing certain telephone records
5 sought by both defendant and government counsel. Discovery has
6 otherwise been pursued diligently.


7 3. Settlement negotiations are under way and, depending
8 on the government's response, may resolve this case. These
9 negotiations have also necessarily delayed the discovery process.

10 A proposed Order will be prepared by counsel for the
11 defendant upon the Court's determination of what it deems
12 appropriate new discovery deadlines to be.

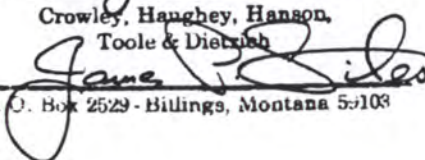
13 Under Local Rule 220-1 this motion for extension will be further
14 supported by undersigned counsel for the defendant within five
15 days.

16 DATED this 29th day of August, 1986.

17 CROWLEY, HAUGHEY, HANSON,
18 TOOLE & DIETRICH

19 BY 
20 JAMES P. SITES
21 P. O. Box 2529
Billings, MT 59103-2529

Attorneys for Defendant

21 CERTIFICATE OF SERVICE
22 This is to certify that the foregoing was duly
23 served by mail upon parties or attorneys of re-
24 cord at their addresses or addresses this 29
25 day of August, 1986
Crowley, Haughey, Hanson,
Toole & Dietrich
By 
P. O. Box 2529 - Billings, Montana 59103

RECEIVED
SEP 2 1980
U.S. ATTORNEY
GREAT FALLS, MONTANA

Jack Ramirez
Crowley, Haughey, Hanson
Toole & Dietrich
P. O. Box 2529
Billings, Montana 59103
406-252-3441
Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA	)	Cause No. CV-86-003-GF-PGH
)	
Plaintiff,)	
)	
vs.	)	FIRST INTERROGATORIES TO PLAINTIFF
	)	AND REQUESTS FOR PRODUCTION OF
GRACE PETROLEUM CORPORATION,	)	DOCUMENTS
)	
Defendant.)	

Defendant, by its attorney, hereby propounds interrogatories to the Plaintiff, pursuant to Rule 33 of the Rules of Civil Procedure. Interrogatories must be answered in writing by a person under oath within the time period allowed. The interrogatories shall be deemed continuing in nature so as to require supplemental answers in the event that further information is obtained after the initial answers are served and filed.

Defendant also propounds Requests for Production of Documents, pursuant to Rule 34 of the Rules of Civil Procedure. They must be answered in writing within the time allowed. The Requests also shall

be deemed continuing in nature so as to require supplemental responses to be filed in the event that additional information is obtained after the date the initial responses are served and filed.

As for the Requests, Defendant requests Plaintiff to produce and permit Defendant, through its attorneys, to inspect and copy, if desired, each of the below-listed documents, or sets of documents, as the case may be, at the Offices of the United States Attorney, Federal Building, Billings, Montana on September 30, 1986, beginning at 8:30 o'clock A.M.

INTERROGATORIES

1. What other states, in addition to Montana, did not opt to have their own underground injection control ("UIC") program?

2. For each of the states identified in your answer to the preceding interrogatory, when were their UIC programs put into effect (by EPA)?

3. For each state which did not opt to have its own UIC program, give the number of wells in each such state for which an application for the UIC permit, like that required of Grace Petroleum Corporation ("Grace"), had to be submitted.

4. As to the wells identified in your answer to the preceding interrogatory, in each case, what is, or was, the time period after initial notification in which applications for UIC permits had to be submitted?

5. With regard to these states, which did not opt to have their own UIC program, in each such state, what percentage of all wells requiring permitting were selected for the first deadline for submitting the application for the UIC permit?

6. With regard to each such state, i.e., those that did not opt to have their own UIC program, in each case, when was the first deadline set, after the respective implementation dates for the UIC program?

7. With regard to each such state, i.e., those referenced to in the preceding interrogatories, what was the procedure for selecting wells to be notified of the requirement to submit an application for a UIC permit and how were all permitting deadlines determined?

8. (a) Identify (name, title and current address) the members of the Selection Committee referenced to by Mr. William Engle at page 23 of his deposition of June 2, 1986 ("Engle deposition").

(b) When did this Selection Committee hold its meetings?

(c) What materials were referred to and were available to its members with regard to the discussions, deliberations, and decisions of this Selection Committee?

(d) Identify all persons who appeared before the Selection Committee or had any input or contact with its members on any subject of the Committee's deliberations.

9. Why didn't the 1,300 enhanced recovery wells in Montana have to submit an application for the UIC permit (See Engle deposition, P.24)?

10. (a) With reference to the Montana UIC program, put into effect on June 25, 1984, in what manner was the first deadline established for submission of applications for UIC permits?

(b) Who(m) established this deadline?

(c) What factors were considered in establishing this first deadline?

(d) Identify all people who had input in the decision setting the first deadline for submitting applications for UIC permits in Montana.

11. As to Montana, at what times, were, or will, the remaining wells required to submit an application for UIC permits be notified?

12. (a) Who has been notified in Montana so far to submit an application for a UIC permit and give the name of the well which each notification relates to.

(b) With regard to your answers to subpart (a) of this interrogatory, give the date upon which each notification was sent.

(c) Give the result of each notification and, specifically, whether an extension of time was granted, if so, detail the circumstances involved.

(d) Besides this case against Grace, in Montana, has other enforcement action been undertaken in regards to UIC permitting, if so, detail the circumstances involved.

(e) Which wells in Montana remain to be notified of the requirement to submit an application for UIC permit.

13. How was the schedule in Montana for notifying wells of the requirement to submit an application for UIC permit determined?

14. (a) In Montana, how were each group of wells notified of the requirement to submit an application for UIC permit determined after the first group was selected?

(b) Who(m) made this determination, of the order of notification?

(c) What was considered in setting this order?

(d) Identify all the people who were involved in determining the order of notification and what was considered in establishing same.

15. Today, in Montana, what is the time period ("period") allowed from EPA's notification to submit an application for a UIC permit to submit same?

16. Who(m) made the decision to increase the period, identified in your answer to the preceding interrogatory, from that given to Grace?

17. When was this change increasing the period made?

18. Why was this change increasing the period made?

19. What factors were considered in increasing the allowable period?

20. Identify all people involved in the process which resulted in the above-referenced change increasing the allowable period?

21. Who(m) composed the federal regulations pertaining to the UIC program?

22. Who(m) was involved in the composition of the UIC federal regulations?

23. Who(m) designed the original form ("form") for applying for the UIC permits?

24. Who(m) was involved in designing the original forms for applying for the UIC permits?

25. Has the form been changed?

26. Have the instructions to the form been changed?

27. Have the requirements for issuance of a UIC permit been changed?

28. If your answer to any of the preceding three interrogatories is affirmative, as to the changes, each of them,

- (a) Describe the changes.
- (b) When were the changes made?
- (c) Why were they made?
- (d) Who(m) made them?
- (e) Who(m) was involved in the changes being made?

29. With regard to the permit writers' workshops, referenced to at page 32 of Engle deposition, answer the following:

- (a) When were such workshops held?
- (b) Where were they held?

- (c) Identify the length of each workshop.
- (d) Why were such workshops held?
- (e) Who(m) authorized such workshops to be held?
- (f) Who(m) conducted such workshops?
- (g) What written materials were used?
- (h) Who(m) attended each such workshop?

30. Were there public meetings held in any state to help those who had to complete an application for the UIC permit?

31. If your answer to the preceding interrogatory is affirmative, in each case, answer the following:

- (a) When were such public meetings held?
- (b) Where were they held?
- (c) Why were such public meetings held?
- (d) Who (m) conducted such public meetings?
- (e) What written materials were used in such public meetings?
- (f) Who (m) attended such public meetings?

32. Who prepared the letter identified as Exhibit A-2, at page 36 of Engle deposition?

33. Do you admit that EPA received applications from Grace for UIC permits for three wells, EPU 110-XD, Goings Government #1 and Buck Elk #2, no later than August 6, 1984?

34. If your answer to the preceding interrogatory is negative, state the reasons why.

35. Give the names, title and current addresses for all those in EPA who had responsibility for, or involvement in, the Montana UIC program. In doing so, state the nature of each's responsibility and/or involvement.

36. Give names, titles and current addresses of all those in EPA who worked, in any way, on the Montana UIC program. In doing so, state the nature of each's work.

37. Give the names, titles and current addresses of all those who have worked, in any way, or been involved in, this proceeding and the Grace applications for a UIC permit, since June 25, 1984. In doing so, state the nature of each's work and/or involvement.

38. Has any other applicant for a UIC permit ever been in violation of the permitting requirements?

39. If your answer to the preceding interrogatory is affirmative, with respect to each such applicant,

(a) Describe the circumstances.

(b) Identify such applicant.

- (c) Identify where the violation is alleged to have occurred.
- (d) Identify when the violation is alleged to have occurred.
- (e) Describe what, if any, action was taken regarding the alleged violation.
- (f) If no action was taken regarding the alleged violation, why not?
- (g) If action was taken regarding the alleged violation, what was done and what was the result?
- (h) With regard to each incident, of an alleged violation of the UIC permitting requirements, who~~n~~ made the decisions on how the Government would proceed with regard to each one.

40. Have any extensions to the filing deadlines set for submitting an application for the UIC permit ever not been granted?

41. Name all applicants for UIC permits receiving extensions to the filing deadline?

42. (a) With regard to each company or individual identified in the answer to the preceding interrogatory, state when such extensions were granted.

(b) Explain, with regard to each extension grant, the circumstances which led up to the extension being granted.

(c) Who⁽ⁿ⁾ made the decisions regarding an extension grant?

43. Give the name and address of a woman named Doris, referenced to at page 9 of Engle deposition.

REQUESTS FOR PRODUCTION

1. For 1983 to date, telephone memo sheets referenced to at page 11 of Engle deposition.
2. All files for each well in Montana as to which an application for the UIC permit was/will be required, such files being referenced to at page 11-12 of Engle deposition.
3. Three letters, or memos, referenced to by government counsel Donohue at page 20 of Engle deposition.
4. All records of the Selection Committee, referenced to at page 23 of Engle deposition.
5. EPA's files for the Montana UIC program.
6. EPA's files for the UIC program in states, other than Montana, which did not opt to have their own UIC program.
7. All records relative to how a first deadline in which an application for the UIC permit was determined in states, other than Montana, which did not opt to have their own UIC program.
8. All records relative to the increase in the time period allowed from EPA's notification to submit an application for a UIC permit to submitting same.
9. All records relative to the forms for applying for the UIC permit.
10. All records relative to changes in the forms for applying for the UIC permit.

11. All records relative to the permit writers' workshops (See Interrogatory No. 29.)

12. All records relative to public meetings held, if any, to help those who had to complete an application for the UIC permit (See Interrogatory No. 30.)

13. Travel expense records of Mr. William Engle, referred to at page 34 of Engle deposition.

14. All records consulted or in any way referred to in answering Interrogatories Nos. 38-39.

15. All records consulted or in any way referred to in answering Interrogatories Nos. 40-42.

16. All records relative to EPA policy, procedure or practice in regards to extensions to the filing deadlines set for submitting an application for the UIC permit.

17. All records relative to UIC permitting for Murphy Oil USA, Inc., Ajax Oil Company and Mesa Petroleum Company.

18. All drafts, notes, outlines, other preparatory writings to its final form, and all other records relative to the writing identified as Exhibit A-6 to Engle deposition.

DATED this 29th day of August, 1986.

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly served by mail upon opposing attorneys of record at their address or addresses this

29 day of August 1986

CROWLEY, HAUGHEY, HANSON

TOOLE & DIETRICH

P.O. BOX 2529

BILLINGS, MT 59103-2529

By

James P. Siles

CROWLEY, HAUGHEY, HANSON
TOOLE & DIETRICH

By:

James P. Siles

P. O. Box 2529

Billings, MT 59103

Attorneys for the Defendant

Donohue

9/3/86

FILED
1986 SEP -3 AM 10:49
LOU ALBERTSON, JR. CLERK
BY ~~STATE WELDELE~~
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA.)	
)	
Plaintiff,	)	<u>NO. CV-86-003-GF</u>
)	
vs.)	
)	
GRACE PETROLEUM CORPORATON,	)	<u>MEMORANDUM AND ORDER</u>
)	
Defendant.)	

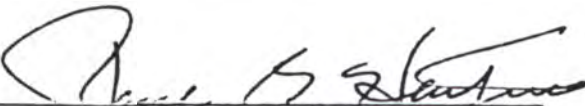
This action for injunctive relief and civil penalties under the Safe Drinking Water Act, 42 U.S.C. §§300f, et seq., is before the court on motion of the plaintiff United States of America requesting the court to strike the demand for trial by jury made by the defendant, Grace Petroleum Corporation. Having considered the merits of the arguments advanced by the parties in support of their respective positions, the court is compelled by the rationale espoused by the Fourth Circuit Court of Appeals in United States v. Tull, 769 F.2d 182, 186-87 (4th Cir.

6-5-1-2383
DEPARTMENT OF JUSTICE
44 SEP 9 1986
RECORDS
D

1985), cert. granted, ____ U.S. ____ (May 27, 1986) (No. 85-1259), and adopted by the Eleventh Circuit Court of Appeals in United States v. M.C.C. of Florida, Inc., 772 F.2d 1501, reh. denied, 778 F.2d 793 (11th Cir. 1985), cert. granted, ____ U.S. ____ (Jan. 30, 1986) (No. 85-1292), with respect to the right to trial by jury in an analogous action prosecuted under the Clean Water Act, 33 U.S.C. §§1251, et seq., to GRANT the motion of the Government and strike the defendant's demand for a trial by jury.

IT IS SO ORDERED.

DATED this 3rd day of September, 1986.



PAUL G. HATFIELD
UNITED STATES DISTRICT JUDGE

Memorandum



~~8/28/86~~

Donohue

Subject

UNITED STATES v. Grace Petroleum Corp.
Ref: DTB:BGD:bab
90-5-1-1-2383

Date

8/28/86
CV 86-3-GF
CI 85-0249

To

From

BRIAN G. DONOHUE, Attorney
Environmental Enforcement Sec.
Land & Natural Resources Div.

GEORGE F. DARRAGH, Jr.
Assistant U.S. Attorney
212 Federal Building
P. O. Box 3446
Great Falls, MT 59403

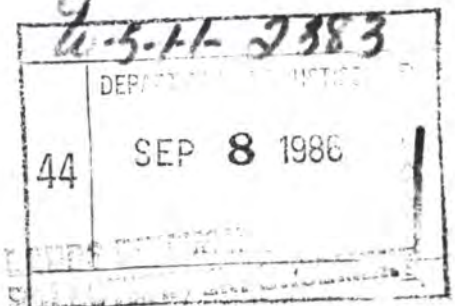
Enclosed are copies of the defendant's Motion for Extension of Time to Respond to Discovery, along with accompanying Affidavit. This motion and affidavit were received on 8/26/86.

Also enclosed are copies of Judge Hatfield's Order granting the defendant's motion for extension of time to respond to the United States' request for production of documents and interrogatories.

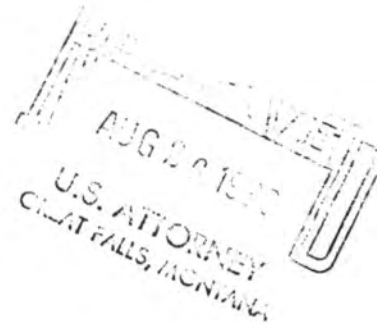
Enc.

dln

cc: Alfred Smith/Derrick Hobson
Office of Regional Counsel
Environmental Protection Agency
Region VIII
1860 Lincoln Street
Denver, CO 80295-0699



1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant



8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,)

13 Plaintiff,)

14 vs.)

15 GRACE PETROLEUM CORPORATION,)

16 Defendant.)

Cause No. CV-86-003-GF-PGH

MOTION FOR EXTENSION
OF TIME TO RESPOND
TO DISCOVERY

17
18 COMES NOW the defendant, Grace Petroleum Corporation,
19 and timely moves this Court for its order granting an extension of
20 time in which to respond to a request for production of documents
21 and interrogatories, each of which were on July 23, 1986, served
22 by plaintiff, U. S. A., by mail. Defendant requests an extension
23 of 15 days, to and including September 9, 1986, in which to serve
24 its responses on the United States.
25

1 The undersigned has contacted the lead trial attorney
2 for the United States, Brian Donohue, Esq., and is authorized by
3 him to represent that opposing counsel has no objection to the
4 instant request for an extension of time. The Motion is otherwise
5 based on good cause, as reflected in the attached affidavit of
6 counsel.

7 A proposed Order is attached hereto.

8 Dated this 25th day of August, 1986.

9 CROWLEY, HAUGHEY, HANSON,
10 TOOLE & DIETRICH

11 By James P. Sites
12 James P. Sites
13 P.O. Box 2529
14 Billings, Montana 59103
15 Attorneys for Defendant

16 **CERTIFICATE OF SERVICE**

17 This is to certify that the foregoing was duly
18 served by mail upon parties or attorneys of re-
19 cord at their address or addresses this 25th
20 day of August, 1986

21 Crowley, Haughey, Hanson,
22 Teole & Dietrich

23 By James P. Sites
24 P.O. Box 2529 - Billings, Montana 59103
25

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8
9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF MONTANA
11 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) AFFIDAVIT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 STATE OF MONTANA)
22) ss.
23 County of Yellowstone)

24 JAMES P. SITES, of lawful age, being first duly sworn
25 upon oath, deposes and says:

1. That this is a civil action commenced by the United
States of America for its Environmental Protection Agency.

2. That the firm of Crowley, Haughey, Hanson, Toole &
Dietrich represents the defendant, Grace Petroleum Corporation,

1 in this civil action. As a lawyer employed in the firm, James P.
2 Sites is assisting in the defense of this action.

3 3. On July 23, 1986, plaintiff, U.S.A., served inter-
4 rogatories and a request for production.


5 4. Responses to same, under the Rules of Civil Proce-
6 dure, would normally be due today.

7 5. Defendant, Grace Petroleum Corporation requires an
8 expansion in the deadline for serving its responses to the
9 above-described and pending governmental discovery of 15 days, to
10 and including September 9, 1986, because of the voluminous nature
11 of the discovery demands and the unexpected press of other
12 matters at the office.

13 6. The Court may be advised other discovery in the
14 case has proceeded and settlement negotiations have taken place.

15 7. The Court may be further advised that the lead
16 trial attorney for the United States, Mr. Brian Donohue, has been
17 contacted regarding this motion to extend time and has authorized
18 me to represent that he has no objection to the motion.

19 IN WITNESS WHEREOF, Affiant has hereunto subscribed his
20 name.

21
22 
James P. Sites

23 Subscribed and sworn to before me this 25th day of
24 August, 1986.
25

1
2
3 (Seal)
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Linn Dietrich
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires 3-7-87

22
23
24
25

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 25th
day of August, 1986

Crowley, Haughey, Hanson,
Toole & Dietrich

By [Signature]
P.O. Box 2529 - Billings, Montana 59103

FILED

1986 AUG 27 11 4 12

LOU ALLEN, JR. CLERK

BY PATRICIA A. McQUIRE
DEPUTY CLERK

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8/27/86

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15 vs.) ORDER EXTENDING TIME TO
16 GRACE PETROLEUM CORPORATION,) RESPOND TO CERTAIN
17 Defendant.) DISCOVERY

18 Pursuant to the Motion of Defendant, Grace Petroleum
19 Corporation, and the attached affidavit of counsel showing good
20 cause and that opposing counsel has no objection to the Motion,
21 Grace Petroleum Corporation is hereby granted to and including
22 September 9, 1986, in which to serve its responses to the United
23 States' request for production of documents and interrogatories,
24 each of which were on July 23, 1986, served by mail.

25 Dated this 27 day of August, 1986.

PAUL G. HATFIELD
United States District Judge

63-1-2383
DEPT. OF JUSTICE
44 SEP 2 1986
RECORDED

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

1986 AUG 27 PM 3:07

LOU ALLEN

BY *Patricia M. Quire*
DEPUTY CLERK

8/27/86

LODGED

AUG 25 1986

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MONTANA

GREAT FALLS DIVISION

LOU ALLEN, JR. CLERK

By Deputy Clerk

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GRACE PETROLEUM CORPORATION,

Defendant.

Cause No. CV-86-003-GF-PGH

ORDER EXTENDING TIME TO
RESPOND TO CERTAIN
DISCOVERY

Pursuant to the Motion of Defendant, Grace Petroleum Corporation, and the attached affidavit of counsel showing good cause and that opposing counsel has no objection to the Motion, Grace Petroleum Corporation is hereby granted to and including September 9, 1986, in which to serve its responses to the United States' request for production of documents and interrogatories, each of which were on July 23, 1986, served by mail.

Dated this 27 day of August, 1986.

James H. [Signature]
United States District Judge

DEPARTMENT OF JUSTICE

SEP 2 1986

RECEIVED
FEDERAL BUREAU OF INVESTIGATION
U.S. DEPARTMENT OF JUSTICE

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8/25/86

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

12 UNITED STATES OF AMERICA,)
13 Plaintiff,)
14 vs.)
15 GRACE PETROLEUM CORPORATION,)
16 Defendant.)

Cause No. CV-86-003-GF-PGH

MOTION FOR EXTENSION
OF TIME TO RESPOND
TO DISCOVERY

18 COMES NOW the defendant, Grace Petroleum Corporation,
19 and timely moves this Court for its order granting an extension of
20 time in which to respond to a request for production of documents
21 and interrogatories, each of which were on July 23, 1986, served
22 by plaintiff, U. S. A., by mail. Defendant requests an extension
23 of 15 days, to and including September 9, 1986, in which to serve
24 its responses on the United States.

25

2-5-1-2383

44	DEPARTMENT OF JUSTICE	R
	AUG 28 1986	1
	LANDS	0

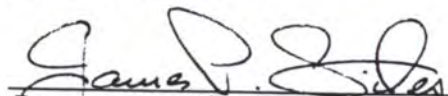
1 The undersigned has contacted the lead trial attorney
2 for the United States, Brian Donohue, Esq., and is authorized by
3 him to represent that opposing counsel has no objection to the
4 instant request for an extension of time. The Motion is otherwise
5 based on good cause, as reflected in the attached affidavit of
6 counsel.

7 A proposed Order is attached hereto.

8 Dated this 25th day of August, 1986.

9 CROWLEY, HAUGHEY, HANSON,
10 TOOLE & DIETRICH

11 By



12 James P. Sites

13 P.O. Box 2529

14 Billings, Montana 59103

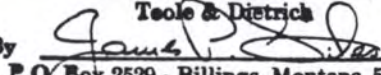
15 Attorneys for Defendant

16 **CERTIFICATE OF SERVICE**

17 This is to certify that the foregoing was duly
18 served by mail upon parties or attorneys of re-
19 cord at their address or addresses this 25th
20 day of August, 1986.

21 Crowley, Haughey, Hanson,
22 Toole & Dietrich

23 By



24 P.O. Box 2529 - Billings, Montana 59103
25

1 Jack Ramirez
2 Crowley, Haughey, Hanson,
3 Toole & Dietrich
4 P. O. Box 2529
5 Billings, Montana 59103
6 406-252-3441
7 Attorneys for Defendant

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF MONTANA
10 GREAT FALLS DIVISION

11
12 UNITED STATES OF AMERICA,) Cause No. CV-86-003-GF-PGH
13)
14 Plaintiff,)
15)
16 vs.) AFFIDAVIT
17)
18 GRACE PETROLEUM CORPORATION,)
19)
20 Defendant.)

21 STATE OF MONTANA)
22) ss.
23 County of Yellowstone)

24 JAMES P. SITES, of lawful age, being first duly sworn
25 upon oath, deposes and says:

1. That this is a civil action commenced by the United States of America for its Environmental Protection Agency.

2. That the firm of Crowley, Haughey, Hanson, Toole & Dietrich represents the defendant, Grace Petroleum Corporation,

1 in this civil action. As a lawyer employed in the firm, James P.
2 Sites is assisting in the defense of this action.

3 3. On July 23, 1986, plaintiff, U.S.A., served inter-
4 rogatories and a request for production.

5 4. Responses to same, under the Rules of Civil Proce-
6 dure, would normally be due today.

7 5. Defendant, Grace Petroleum Corporation requires an
8 expansion in the deadline for serving its responses to the
9 above-described and pending governmental discovery of 15 days, to
10 and including September 9, 1986, because of the voluminous nature
11 of the discovery demands and the unexpected press of other
12 matters at the office.

13 6. The Court may be advised other discovery in the
14 case has proceeded and settlement negotiations have taken place.

15 7. The Court may be further advised that the lead
16 trial attorney for the United States, Mr. Brian Donohue, has been
17 contacted regarding this motion to extend time and has authorized
18 me to represent that he has no objection to the motion.

19 IN WITNESS WHEREOF, Affiant has hereunto subscribed his
20 name.

21
22 
James P. Sites

23 Subscribed and sworn to before me this 25th day of
24 August, 1986.

25

(Seal)

Linn M. Miller
Notary Public for the State of Montana
Residing at Billings, Montana
My Commission expires 3-7-87

CERTIFICATE OF SERVICE

This is to certify that the foregoing was duly
served by mail upon parties or attorneys of re-
cord at their address or addresses this 25th
day of August, 1986.

Crowley, Haughey, Hanson,
Toole & Dietrich

By Jama S. Sells
P.O. Box 2529 - Billings, Montana 59103

90-5-1-1-2383
Sec 3

11/47:08-1-1
7
60-89-205

